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Promotion and protection of human rights: implementation of human rights instruments

Letter dated 19 October 2006 from the Permanent Representative of Uzbekistan to the United Nations addressed to the Secretary-General

I have the honour to forward the information on follow-up and realization of the recommendations of Theo Van Boven, Special Rapporteur on the question of torture, who visited Uzbekistan in November 2002 on the invitation of the Government of the Republic of Uzbekistan (see annex).

I would appreciate it if you could circulate the present letter and its annex as a document of the General Assembly under agenda item 67 (a).

(*Signed*) Alisher **Vohidov**
Permanent Representative of the Republic of Uzbekistan

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Annex to the letter dated 19 October 2006 from the Permanent Representative of Uzbekistan to the United Nations addressed to the Secretary-General

Information on follow-up and realization of the recommendations of the Special Rapporteur on the question of torture

1. The Special Rapporteur on the question of torture, Theo Van Boven, visited Uzbekistan in November 2002 for the first time, upon the invitation of the Government of the Republic of Uzbekistan. During his visit, he had a number of official meetings with high-ranking officials, representatives of civil society groups, international organizations and foreign embassies. He also visited a number of penitentiaries.

2. The Special Rapporteur met with persons who were themselves, or relatives of, alleged victims of torture and other cruel treatment. He also received oral and written information from non-governmental organizations and institutions of civil society, including the human rights organizations Mothers Against Capital Punishment and Torture, the Legal Aid Society, the Human Rights Society of Uzbekistan, the Independent Human Rights Organization of Uzbekistan, Freedom House, Mazlum, Ezgulik, the Committee on legal aid to prisoners, the Human Rights Initiative Group, the Centre for Democratic Initiatives and the Tashkent human rights protection group. Moreover, he met representatives of the United Nations Development Programme (UNDP) in Uzbekistan and representatives of the Tashkent office of the Organization for Security and Cooperation in Europe (OSCE).

3. In February 2003, the Special Rapporteur presented a report containing recommendations for the Government of Uzbekistan to improve measures to fight torture. On the basis of that report, a national plan of action was elaborated, which was approved by the Government of Uzbekistan on 9 March 2004. All clauses of that plan have been implemented.

Recommendation (a)

4. In accordance with the recommendations of the Special Rapporteur (see E/CN.4/2003/68/Add.2), all three branches of power in Uzbekistan have publicly condemned torture of all kinds.

5. **Legislative branch.** In August 2003, Parliament adopted amendments to article 235 of the penal code of Uzbekistan, which now states that torture and other cruel, inhuman and degrading treatment or punishment at any stage of criminal proceedings are crimes and must be prosecuted by law. The article is now in line with article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment.

6. **Executive branch.** Abdulaziz Kamilov, the then State Adviser to the President of Uzbekistan, at a briefing for the diplomatic corps and foreign journalists in March 2003, pointed out that the State was going to fight against torture and other types of cruel treatment. In March 2004, a special Government programme to implement the Convention against Torture was adopted.

7. In May 2004, the coordinating council of law enforcement agencies of the General Prosecutor's Office of Uzbekistan considered the issue of compliance by law enforcement agency officers with international commitments, in line with the Convention against Torture, and discussed adherence to legal requirements during the examination of claims and complaints from citizens on illegal actions by officers of law enforcement and supervisory bodies. The board of the General Prosecutor's Office also discussed the issue of strengthening the Prosecutor's control over the respect for constitutional rights during detention, indictment and arrest.

8. On 22 May 2003, the board of the Ministry of Internal Affairs raised the issue of legislation concerning the bodies of internal affairs, other ways to improve it and human rights. The inadmissibility of any violation of law or human rights of any form in the activities of law enforcement agencies, including prohibited methods of investigation and interrogation (i.e., torture), were included in the resolution adopted by the board. In its resolution, the board highlighted the necessity to increase attention to claims linked with torture and illegal actions by officers of law enforcement agencies, and also created additional controls over their activities.

9. **Judicial branch**. On 19 December 2003, the plenary session of the Supreme Court of Uzbekistan adopted resolution 17 on the implementation by courts of laws providing suspects or defendants with the right to defence, which provides an interpretation of "torture" in accordance with the Convention against Torture. Moreover, resolution 12 of 24 September 2004 on the implementation of certain norms of the code of penal procedure on the admissibility of evidence states that evidence obtained by torture is unacceptable.

Recommendation (b)

10. Recommendation "b" states that the Government should amend its domestic penal law to include the crime of torture, the definition of which should be fully in consistent with article 1 of the Convention against Torture and supported by an adequate penalty.

11. In its domestic legislation, Uzbekistan has made crimes connected with torture a separate category of crime. In its revised form, article 235 of the penal code on the use of torture and other forms of cruel, inhuman or degrading treatment and punishment states that the use of torture and other forms of cruel, inhuman or degrading treatment and punishment (i.e., illegal mental or physical coercion) on a suspect, defendant, witness, victim or other participant in a criminal process, or a person serving punishment, his or her relatives by threats, striking, assault, torture or other illegal actions by an inspector of inquiry, investigator, prosecutor or other official of a law enforcement body or correctional facility in order to obtain from him or her information, confession, unauthorized punishment for their crime or their coercion to accomplish any action, will be punishable by reformatory work for up to three years or by imprisonment for up to three years. The same actions carried out (a) with the use of violence that endangers life and health, or the threat of use of such violence; (b) under any motivation based on grounds of national, racial, religious or social discrimination; (c) by a group of persons; (d) repeatedly; (e) with regard to a minor or a woman, knowing that she is pregnant are punishable by three to five years' imprisonment.

12. Actions causing serious physical injury or other grave consequences are punishable by imprisonment with disenfranchisement for a term of five to eight years.

13. Resolution 17 of the plenary session of the Supreme Court of Uzbekistan gives an interpretation of torture in line with the Convention against Torture.

14. On 18 December 2003, the Minister for Internal Affairs issued Instruction 334 with an explanation of the purposes and substance of the introduction of that article to the penal code, as well as instructions on the obligatory studying of relative norms and the establishment of specific arrangements for registering and checking complaints and claims by citizens. All measures and amendments to the legislation concerning the implementation of the programme have been widely covered by the mass media.

15. Articles condemning all forms of torture regularly appear in newspapers (*Khayot va Qonun, Golos Uzbekistana, Narodnoye Slovo, Pravda Vostoka*) and magazines (*Demokratizatsiya, I Prava Cheloveka, Khukuk-Pravo-Law, Obshchestvennye nauki Uzbekistane, Advokat*). Law amendments are published in the parliamentary periodical *Vedomosti Oliy Majlisa Respubliki Uzbekistan*. The mass media constantly explain the rights of citizens when dealing with law enforcement officers.

16. In January 2004, the *Torture Reporting Handbook* by Camille Giffard (Human Rights Centre, Essex University, United Kingdom, 2000) was translated into Uzbek and published with the assistance of the British Embassy in Tashkent. This handbook has been distributed to officials of law enforcement agencies and non-governmental organizations. At the session of the interdepartmental working group on the observance of human rights by law enforcement agencies held on 12 June 2004, the results of work on the translation and publishing of the book and its distribution to the officials of law enforcement agencies were considered.

17. In compliance with new requirements, the Ministry of Internal Affairs regularly examines the practice of detaining suspects by law enforcement agencies, in accordance with article 225, and the use of the right to appeal the measures of preventive punishment, in accordance with article 241 of the code of penal procedure.

18. At the meeting of the board of the General Prosecutor's Office held on 20 May 2004, the results of an examination of the practice of suspect detention by law enforcement agencies, in accordance with article 225, and use of the right to appeal the measures of preventive punishment, in accordance with article 241 of the code of penal procedure, were discussed. Resolutions concerning these issues have been adopted by the board of the General Prosecutor's Office and the coordinating council of law enforcement agencies.

Recommendation (c)

19. On 8 August 2005, the presidential decree on the transfer of the right to issue arrest warrants to courts (introduction of habeas corpus) was adopted. According to the decree, as from 1 January 2008, the right to issue warrants for the arrest of persons suspected or accused of committing crimes will be transferred to courts. Amendments of and additions to the code of penal procedure and the correctional

code as well as the laws of Uzbekistan relating to the courts and prosecutors are being prepared.

20. On 20 and 21 October 2003, a round table on the right to fair trial and the introduction of habeas corpus was held in Tashkent. It was organized by the American Bar Association, the Office for Democratic Institutions and Human Rights of OSCE, UNDP and the National Human Rights Centre of Uzbekistan. An American professor on criminal procedure, Steven Taman, attended the round table.

21. At the session of the interdepartmental working group on monitoring the observance of human rights held on 24 August 2004, participants discussed the results of the round table on the implementation of habeas corpus in the national legislation of foreign States and international practices. The group decided:

(a) To note that the Ministry of Internal Affairs, together with the National Human Rights Centre, with the support of the American Bar Association, had held the round table discussions with the participation of foreign experts on the implementation of habeas corpus in the national legislation of foreign States and international practice;

(b) To note that all requirements of the action plan on the realization of the Convention against Torture had been implemented. The brochure on international agreements on human rights has been translated and will be published and distributed to law enforcement agencies in the near future.

22. The programme on the improvement of material, technical and financial support to courts, judges and court clerks has been developed and approved by the Department for the discharge of court rulings, court material and technical support.

23. The implementation of the programme is regularly evaluated by the interdepartmental working group on monitoring the action plan. Thus, all courts are fully equipped with computers and transport. New court buildings have been opened and the construction of new buildings and renovations are continuing in the Republic of Karakalpakstan as well as in Tashkent, Ferghana, Samarkand, Syrdarya and other provinces.

24. A scientific conference on the theme "Interrelations between judicial and extra-judicial protection of human rights: international practice" was held on 10 September 2004. Subsequent to the results of the conference, a resolution on cooperation between the Ombudsman and law enforcement agencies was adopted. Moreover, taking into account the participants' recommendations, a framework for cooperation between the Ombudsman and law enforcement agencies was elaborated.

25. In 2005 and 2006, a number of international conferences on the study and introduction of habeas corpus principles into the national legislation of Uzbekistan were held. With the assistance of the Friedrich Ebert Foundation, seminars on the issue of the independence of judges were held in various cities of Uzbekistan (Tashkent, Bukhara, Samarkand, Nukus and Urgench) in which a member of the Bundestag, the former Federal Minister of Justice of Germany, Herta Däubler-Gmelin, participated. A number of international seminars on the legal issues of transferring the right to issue arrest warrants from the office of the prosecutor to courts was held in the Tashkent State Juridical Institute with the assistance of the American Bar Association.

26. On 25 April 2005, the Committee on Legislation and Court and Legal Issues of the Legislative Chamber of the Oliy Majlis of Uzbekistan arranged a conference on the theme "Improving the legislative basis for ensuring the efficiency of the judicial system and rule of law". The event was widely covered by the national mass media.

27. The centre for the study of public opinion *Ijtimoiy fikr* undertook a survey on torture and similar cruel treatment during interrogation, investigation and imprisonment among imprisoned individuals and previously imprisoned persons.

Recommendation (d)

28. On 8 August 2005, the decree of the President of Uzbekistan on transferring to courts the right to issue arrest warrants was adopted.

29. In recent years, significant work has been carried out to ensure legality in the activity of law enforcement bodies, strengthen the authority of the judiciary as a major guarantee of the effective protection of human rights, ensure the true independence of courts and strengthen their role in the construction of a democratic State and a strong civil society.

30. The specialization of courts in criminal, civil and economic affairs is fixed by law. This has allowed the improvement of the investigative quality of legal proceedings and the strengthening of guarantees of citizens' rights and freedoms. An appeal procedure for case proceedings was introduced to guarantee the correction of judicial errors and the prevention of procrastination in legal proceedings. Cassation procedure has been reformed; citizens now have an opportunity to personally and directly protect their rights in the event of disagreement with a court verdict. The legal mechanisms providing equality of defence and prosecutor's rights in trial proceedings, as well as the realization of the principle of competitiveness, have also been created.

31. The terms of preliminary investigation have been reduced from two years to one, and detention from 1.5 years to 9 months (in exceptional cases, up to 1 year). The extent of application of this preventive punishment has also been limited.

32. The measures on the liberalization of legislation have resulted in an increase in the efficiency and quality of pre-judicial investigations and the administration of justice, as well as an expansion in guarantees of rights of persons involved in trial proceedings.

33. An example of the liberalization of pre-judicial investigation methods is that the use of such preventive detention has been more than halved over the past four years.

34. One major task in the liberalization of the judicial-legal system is the expansion of the powers of courts in effectively protecting the rights of citizens during pre-judicial investigations and, above all, the transfer of the right to issue arrest warrants from the Prosecutor's Office to the court. The measure will considerably improve the efficiency of the protection of citizens' constitutional right to freedom and personal security, in full compliance with the Constitution of Uzbekistan and the universal principles and norms of international law establishing that rights and personal freedoms are firm and that nobody has the right to deprive a person of them or limit them without a court order.

35. At the same time the transfer of rights to the competence of the courts should be carried out consistently after thorough examination and the introduction of relevant modifications of and additions to the code of criminal procedure and the correctional code of Uzbekistan and other legislation, studying foreign experience in this area, developing organizational, legal and procedural mechanisms for the exercise by the courts of the right to issue arrest warrants, preparing and retraining personnel of judicial and law enforcement bodies, and implementing other preparatory measures.

36. With a view to further liberalize the judicial and legal system, ensure the gradual and ongoing transfer to courts of the right to authorize preventive measures related to the restriction of constitutional rights and personal freedoms, and pursuant to articles 19, 25 and 44 of the Constitution of Uzbekistan, establishing rights of citizens to judicial protection, the decision was made:

(a) To transfer to the competence of courts, as from 1 January 2008, the right to issue warrants for the arrest of persons suspected or accused of committing crimes;

(b) To specify that arrests should be carried out only in exceptional cases, when other preventive measures established by law are deemed ineffective and only by the decision of a criminal or martial court.

37. With a view to ensuring the independence of judicial authorities, the further democratization of the principles of selection and appointment of judicial staff, as well as the designation of persons to be appointed as judges, in accordance with the order of the President of Uzbekistan of 30 July 1999, a commission for the consideration of issues connected to the appointment and dismissal of judges was established by the President of Uzbekistan.

38. In order to improve the selection of candidates and the appointment of judges and enforce observance of legal requirements when recommending qualified, erudite and highly moral experts for judicial posts, the said commission was transformed by the decree of the President of Uzbekistan of 4 May 2000 into the Supreme Qualifying Commission for the selection and recommendation of judges under the Office of the President of Uzbekistan. The Commission comprises judges, members of Parliament, representatives of qualifying boards of judges, public associations and highly skilled experts in the field of law. The functions of proposing, suspending and early dismissal of judges, previously assigned to the Minister of Justice, have now been transferred to the Supreme Qualifying Commission.

39. At the same time, the issue of the terms of office of judges is being considered in the framework of the judicial-legal reform being implemented in Uzbekistan.

Recommendation (e)

40. The Department of Investigation of the Ministry of Internal Affairs and the Uzbekistan Bar Association have jointly elaborated and put into practice the regulation on ensuring the rights of detained, suspected and accused individuals to a defence during preliminary investigation and interrogation. With the introduction of this regulation, due control over the behaviour and professional conduct of law enforcement officials is established. The regulation fully outlaws illegal actions against detained, suspected and accused individuals.

41. The implementation of action plans for control of the activities of law enforcement officials in order to prevent torture and other cruel treatment made possible the development of an instruction for prosecutors on the implementation of article 243 of the code of penal procedure. According to that instruction, prosecutors must personally examine suspected or accused persons and their treatment during investigations. Thus, prosecutors now personally carry out the interrogation of suspected or accused minors and women on criminal cases. A centralized system for the registration of relevant applications and complaints, their periodic summarizing and due administrative decisions has been envisioned.

42. In October 2005, the Committee for international affairs and inter-parliamentarian relations of the legislative chamber of the Oliy Majlis conducted activities on parliamentarian control on the implementation of the Convention against Torture. As part of the control, a number of preliminary confinement sites and prisons were visited in Tashkent Province (Zangiota district and the towns of Chirchik, Olmalyk and Bekabad), and the activities of lawyer collegiums, bodies of internal affairs, national security service and prosecutors' offices as well as those of courts, were reviewed and analysed. Particular attention was paid by the parliamentarians to the review of the activities of law enforcement agencies in the light of the recommendations of the Special Rapporteur and the independent expert, Latif Huseynov. A video film was developed on the results of the parliamentarian control.

43. A seminar organized by the legislative chamber of the Oliy Majlis, with the support of UNDP, was conducted in June 2006 with the participation of representatives of law enforcement bodies and members of Parliament. The seminar was dedicated to the implementation of the provisions of the Convention against Torture.

44. Another very important tool to review citizens' complaints is the Ombudsman who, since 2005, has acted on the basis of the revised law. The new law gives all legal grounds for carrying out independent investigations of torture and other abuses by official authorities. According to article 10 of the law, the Ombudsman examines complaints about actions or negligence of authorities or officials who violate the rights, freedoms and interests of citizens. The Ombudsman also has the right to initiate his own investigations.

45. The adoption of the new law guaranteeing independent investigations is proof that the institution of the Ombudsman has been introduced into the criminal and procedural practices of Uzbekistan. The Government and its law enforcement agencies are ready to cooperate in carrying out independent investigations of complaints and other claims of torture that provoked negative public and international response.

46. A procedure for so-called "independent investigations" of the death of suspected and accused persons has been developed. The involvement of authoritative public figures, human rights activists and relatives of the deceased is envisaged as part of the process of investigation. In our opinion, it will also provide impartiality and legitimacy of the results of examination.

47. Recently, the draft of a law on the detention of suspects and accused individuals was developed in Uzbekistan. The document defines the legal status of these individuals, their rights and responsibilities, the regime and conditions of

preliminary detention, and the organization of public control of the observance of the rights and freedoms of persons in custody.

Recommendation (f)

48. In accordance with articles 256, 257 and 266 of the code of penal procedure, officials accused of torture may now be dismissed. A total of 89 complaints of torture against internal affairs operatives were received by the Ministry of Internal Affairs from October 2004 to November 2005. Investigations have shown that one case (in 2004) and 10 cases (in 2005) of unlawful actions of internal affairs operatives were recorded. Five cases were forwarded to the prosecutor for criminal investigations. The perpetrators of two criminal cases were sentenced to a term of imprisonment.

Recommendation (g)

49. On 24 June 2004, on the basis of the decision by the Collegium of the Ministry of Internal Affairs of Uzbekistan dated 22 May 2003, the Ministry issued decree 187, "Formation of the Central Commission on human rights". As an annex to that decree, a plan of action was developed and approved. The plan focuses on strengthening lawfulness and ensuring the observance of human rights in internal affairs bodies. Additionally, a draft for further development and improvement of the correctional system of the Ministry for the period to 2010 has been developed.

50. In accordance with the decree, the above-mentioned Commission, chaired by the Minister for Internal Affairs, has been created. Information on work carried out on the ground is to be provided to the Commission on a monthly basis for analysis and summary.

51. Claims of torture in the system of the Ministry are reviewed by special internal security units that are directly subordinate to the Ministry for Internal Affairs. The units are practically independent; they do not deal with combating crime and are not subordinate to departments that do.

52. Representatives of the public, institutions of civil society and in some cases foreign experts are invited to participate in the investigation of cases of torture, especially those relating to the death of detainees and arrested persons, or of events causing a public outcry. Senior officials of the Ministry of Internal Affairs review all claims of unlawful action. Convicted persons are usually dismissed from office. Pursuant to the provisions of article 235 of the penal code of Uzbekistan, two internal affairs operatives were sentenced to prison for unlawful actions in 2004 and 2005.

53. On 30 September 2005, a new cell on human rights protection and relations with international organizations and the public was created by decree of the Minister for Internal Affairs to increase the legal literacy of the public and to provide it with legal assistance. Cell officers are authorized to review and investigate complaints of unlawful actions, including acts of torture, by internal affairs operatives.

54. In 2003, the national security service informed all its divisions that, in the event of violation of citizens' rights by service personnel, not only guilty officers but also their supervisors would be punished.

55. Representatives of the Ministry for Internal Affairs regularly participate in conferences and round tables organized by the National Human Rights Centre of Uzbekistan, the Ombudsman, UNDP, OSCE and other international organizations. In December 2003, a representative of the Ministry for Internal Affairs participated in the international workshop on the fight against torture held in Almaty, Kazakhstan, with the financial support of the British Foreign Office and in cooperation with the International Bar Association. In July 2003, 10 officials from the Department of Correctional Facilities of the Ministry for Internal Affairs attended summer courses on improving the effectiveness of Central Asian penitentiary bodies, organized by OSCE.

56. In the framework of the implementation plan of the recommendations of the Committee against Torture, the OSCE centre in Tashkent along with the Department of Correctional Facilities is conducting a project aimed at increasing the level of legal awareness of penitentiary personnel and inmates and their familiarization with basic international standards in human rights. As part of the project, the Department has established its own training centre to retrain and improve the skills of the correctional facility personnel.

57. In August 2003, in the framework of a training programme proposed by the OSCE centre in Tashkent for penitentiary system personnel, regional seminars on human rights and international standards on treatment of inmates were conducted in the cities of Tashkent, Navoi and Karshi.

58. In October 2003, seven officials from the correctional system, assisted by experts from the Helsinki Human Rights Foundation, underwent a "train-the-trainers" programme on human rights in Poland. In May 2003, another seven officials from correctional agencies of the Ministry for Internal Affairs attended summer seminars on human rights, organized by the Pavlodar Law College of the Ministry of Justice of Kazakhstan. With the support of the Konrad Adenauer Foundation, Uzbekistan hosted regional seminars on the liberalization of the correctional system in 2004. UNDP, together with Freedom House and the United States Embassy in Tashkent, ran a training tour to Slovenia (from 23 October to 2 November 2004) with the participation of five Government officials (from the Ministry for Internal Affairs, the National Security Service and the Prosecutor's Office) and four human rights activists. The aim was to share experience in the introduction of human rights standards into the work of law enforcement agencies and to establish contacts between them, as well as to examine the feasibility of the creation of a permanent commission to monitor human rights violations and cases of death in detention and custody. After these joint events, a number of discussions on different human rights issues and concrete cases were held among the appropriate authorities, human rights activists and representatives of the donor community, under the auspices of Freedom House.

59. In 2004, the Ministry of Internal Affairs officially requested UNDP to train mid-level officers in monitoring human rights, observing the situation and drafting documentation. A total of 20 officials were trained. Three small grants were allocated to implement the joint human rights initiatives of the Government and non-governmental organizations. One of the projects is a joint initiative developed by the Department of Internal Affairs of Jizak Province and the organization Istiqboli Avlod, to create a legal training centre for officers of law enforcement agencies to provide consultations and educate on human rights. A total of 120

officers of the Ministry of Internal Affairs from Jizak have been trained on human rights and related issues.

60. Ministry officials have visited Austria, Bahrain, Japan, Turkey, the United Arab Emirates, the United States and other countries to study international experience in observance of human rights by law enforcement agencies.

Recommendation (h)

61. The Department of Correctional Facilities of the Ministry of Internal Affairs ensures unimpeded access to correctional sites for representatives of the diplomatic corps, international non-governmental organizations, local non-governmental and non-commercial organizations and the mass media. Moreover, the Ministry of Justice has developed and registered an instruction on the visits of diplomats, representatives of international and domestic non-governmental organizations and local and foreign journalists to penitentiaries. The instruction was published in the bulletin of the Ministry of Justice. The Department distributed the instruction to international and domestic non-governmental organizations.

62. The Government is developing a system of access to correctional institutions for representatives of civil society groups. In that regard, the Department has elaborated a new standard agreement on the access of non-governmental organizations to places of detention.

63. Uzbekistan has cooperated with OSCE, which in recent years has organized special training programmes in the monitoring and drafting of reports on human rights.

64. From 2002 to 2004, experts from the Office for Democratic Institutions and Human Rights of OSCE visited a number of correctional sites in the city of Tashkent and in the provinces of Tashkent, Samarkand, Bukhara, Navoi, Khorezm and Kashkadarya.

65. On the basis of an agreement between the Government of Uzbekistan and the International Committee of the Red Cross (ICRC) on humanitarian activities in places of detention, ICRC representatives conducted 4 visits to penitentiaries in 2001, 5 in 2002, 33 in 2003 and over 50 in 2004.

66. With the assistance of the Department of Correctional Facilities, ICRC representatives had private conversations with 893 prisoners to discuss prison conditions and whether they had been subjected to torture and other kinds of cruel or degrading treatment. The Department officially declared its readiness and intention to establish and develop constant dialogue, organize meetings and take other measures to monitor human rights practices in prisons.

67. In 2003, OSCE experts visited six prisons and other penitentiary sites, the representative of Penal Reform International Baroness Vivien Stern visited two, while the head of the Freedom House office in Tashkent visited one. European Union experts, diplomatic representatives of the United States, France, Germany, the United Kingdom of Great Britain and Northern Ireland, Italy, the Netherlands, Russia, the Islamic Republic of Iran and other countries, journalists of Reuters, Agence France-Presse, Associated Press, the BBC and others frequently visited prisons and other penitentiary sites.

68. In June 2004, the representative of Freedom House in Tashkent, Mjusa Sever, and the adviser to the United States Ambassador to Uzbekistan on socio-economic and political issues, Sylvia Curran, visited a prison located in Zhaslyk, in the Republic of Karakalpakstan. In 2005, international and local non-governmental organizations made nine visits to penitentiary sites of the Ministry of Internal Affairs, including two inspections of correctional facilities. On 3 February 2005, in the framework of the programme to fight tuberculosis, representatives of the KFW-Bank in Central Asia visited correctional facility 64/75 in the town of Pskent. From 10 March to 10 May 2005, the local non-governmental and non-commercial organization legal training centre (Tashkent city) conducted an inspection of correctional facility 64/3 in Tavaksai village, on the theme "The right of access to emergency medical aid".

69. From 10 March to 10 June, the non-governmental organizations regional centre of social adaptation and reproductive health of women (Chirchik), the information-educational centre Intilish (Aspiration) and the Institute of woman and society carried out an inspection on the theme "Implementation of the norms of international law in the national legislation concerning women serving sentences in the Republic of Uzbekistan".

70. On 17 March 2005, the editor of the Tashkent channel of the State broadcasting company, T. A. Haljakina, interviewed convicts in correctional facility UJA-64/7 (Tashkent) with the purpose of demonstrating a healthy way of life, refusal of harmful habits and prevention of AIDS and drug addiction in the correctional system.

71. On 27 April 2005, an expert from the international non-governmental organization KFW/EPOS, A. Nejer, visited facility UJA-64/18. On 22 June 2005, representatives of the International Rehabilitation Council for Torture Victims (Copenhagen) visited facility UJA-64/1. On 20 September 2005, a representative of the German Association of Public Universities visited facility UJA-64/3 to assess the requirements for training convicts in professional skills in the field of education. On 21 September, a visit was made to facility UJA-64/3BK, and, on 26 September, to facility UJA-64/T-1 (Andizhan). In October 2004, an independent expert of the Commission on Human Rights, Latif Huseynov, visited a number of correctional institutions, including prisons and detention centres.

72. The basic purpose of all visits was to become acquainted with the treatment of convicts and their living conditions, and to detect any cases of torture or other kinds of degrading treatment or punishment.

Recommendation (i)

73. The implementation of measures to ensure control over actions of law enforcement agency officers and prevent torture and other cruel treatment permitted the development of an instruction for prosecutors on the implementation of article 243 of the code of penal procedure. According to the instruction, prosecutors personally examine suspected or accused persons for indications of their treatment during investigations. Today, interrogations of suspected or accused minors and women in criminal cases are conducted by the prosecutor personally, in compliance with recommendation (i) of the Special Rapporteur.

Recommendation (j)

74. The plenary session of the Supreme Court examined the enforcement of articles 85 and 95 of the code of penal procedure, according to which evidence collected through unauthorized methods of investigation is to be considered inadmissible.

75. At its plenary session on 19 December 2003, the Supreme Court adopted resolution 17 on the application by courts of laws providing suspects or accused persons the right to a defence. Article 19 of that resolution states that evidence collected through torture, coercion, deceit or any other cruel or degrading treatment and unlawful measures, as well as through violation of the rights of the suspect or accused, cannot be used to bring charges. The resolution states that evidence received in violation of the provisions of penal procedure law is considered inadmissible and invalid. The same requirement is stipulated in article 3 of decision 12 of the plenum of the Supreme Court of 24 September 2004 on the application of norms of penal law regarding the inadmissibility of evidence.

Recommendation (k)

76. The recommendation of the Special Rapporteur states that judges must always ask persons delivered from custody by the Ministry of Internal Affairs or the national security service how they have been treated, pay special attention to their condition and, if needed, to order a medical examination of their physical condition, even if there are no complaints on the part of the detainee.

77. Article 19 of decision 17 of the Supreme Court also stipulates that the investigator, inspector, public prosecutor or judge must always ask persons delivered from custody how they have been treated during questioning and investigation, and enquire about the conditions of their detention. For each case of torture or other illegal method of inquiry, a careful investigation must be conducted, including a medical examination. Officials found to be involved in the use of any illegal means of investigation, including torture and other cruel or humiliating treatment, are subject to remedial or criminal prosecution.

Recommendation (l)

78. The Ministry of Internal Affairs, in collaboration with the Uzbekistan Bar Association, has developed and introduced regulations on the invitation of lawyers and their participation in pre-investigation and in preliminary investigation on the protection of the rights and interests of suspects and accused persons, especially during the initial stages of investigation. On the basis of the regulations, a suspect or accused person has the right to a defence lawyer, who can represent his or her client from the moment of detention (no later than the first 24 hours) and meet with him or her in private.

79. According to the regulations, each investigatory division has a legal consultation office in which lawyers are available 24 hours a day on first call to represent the interests and rights of detained persons.

80. In accordance with the measures of the General Prosecutor's Office for the first half of 2004, the coordination council of law enforcement bodies discussed issues related to the observance of the law when considering complaints and applications of citizens about wrongful actions by law enforcement officials and supervising bodies. In addition, the board of the General Prosecutor's Office discussed measures on strengthening public prosecutor supervision of respect for the constitutional rights of citizens during detention, indictment and arrest.

81. The mass media constantly cover the right of detained persons to a defence. An instruction booklet on the rights of all parties in criminal process has been developed and distributed to the employees of law enforcement bodies. The booklet, accessible to all citizens, is also officially distributed to arrested or detained persons. The booklet explains their right to a defence.

Recommendation (m)

82. Within the framework of a project to promote ongoing legal instruction, a centre of continuous education of lawyers has been established. In 2004, more than 60 lawyers received their first-level training at the centre and all other lawyers of Uzbekistan continue to receive training on the second level. Since 2003, the Bar Association and the Ministry of Justice have jointly conducted training courses at the centre. In 2005, 90 lawyers were to be trained at the centre. Around 60 of them have already attended professional development courses. In 2006, 32 lawyers will be trained at the centre. To date, 21 of them have already completed qualification upgrading courses. In 2005, 107 lawyers attended training courses at the educational centres of the Uzbekistan Bar Association. In 2006, for the first time the manual *Lawyers' Rights* was published.

83. The Bar Association and the Ministry of Justice are currently developing a draft for reforming the bar, as a basis for adopting a new law on the bar, improving the legislation of the judicial system and the further implementation of the Convention against Torture.

84. The mass media constantly cover legal aid practices. The Bar Association has its own magazine, *The Lawyer*, published in Uzbek and Russian. The Bar Association also has its own website (www.advocates.uz). The website is a platform for lawyers that provides essential information and a forum for discussions. The site was financed by the Government of the Netherlands under the Umbrella Project for Human Rights in Uzbekistan.

85. The Ministry of Health and the Ministry of Internal Affairs have established a training programme on the medico-biological issues of torture and their consequences for doctors working in the correctional system.

86. In 2004, the Ministry of Health trained 90 doctors employed in the correctional system in finding ways to detect residual signs of physical torture or other kinds of cruel treatment. Training courses are continuing.

Recommendation (n)

87. In April 2003, the Ministry of Internal Affairs issued a decree on rules relating to the use of temporary detention cells and related medical services. According to

the decree, any person brought to a cell is subject to a medical examination, the results of which must be reported. Similar requirements are applicable to detention cells used during investigations.

88. With a view to strengthening cooperation between prison and public health services, as well as improving the quality of health services for persons in custody, with the assistance of the regional representation of Penal Reform International, the Republican Coordination Council for prison health services, which includes experts from the Ministry of Health, medical workers from the Ministry of Internal Affairs and representatives of non-governmental organizations, is operational and functioning well. The Council holds its meetings, with the participation of international experts, to discuss issues relating to prison health services. The Secretary-General of Penal Reform International, Baroness Vivien Stern, a Life Peer of the House of Lords of Great Britain, visited Uzbekistan.

Recommendation (o)

89. The Government of Uzbekistan actively distributes information and educational materials concerning the prohibition of torture. Many official bodies, non-governmental and international organizations are involved in this work. During the period 2002-2004, a collection of the main international documents of the United Nations, OSCE and UNICEF were published in the official language three times. About 10,000 copies were printed, including 5,000 copies specially intended for law enforcement bodies. Other editions were distributed to tertiary institutions, mainly to law schools.

90. In January 2004, with the support of the Embassy of the United Kingdom of Great Britain and Northern Ireland in Tashkent, the *Torture Reporting Handbook* by Camille Giffard, was published in the official language. It should be noted that the financial support of different international organizations, such as UNDP and its development support services, and OSCE, made the publication of the handbook possible.

91. The curriculum of the Republican Training Centre for lawyers includes courses such as "National law in the Republic of Uzbekistan and international standards of justice", "Basics in international humanitarian law", "Legal basis of the fight against international crime", "The place and role of international standards in the activities of law enforcement bodies" and "The national law of the Republic of Uzbekistan and international law for human rights". During the courses, participants (regional judge nominees, employees of the Ministry of Justice and lawyers) are informed about international standards in the sphere of human rights and the Convention against Torture.

92. Special lectures and practical classes on identifying, during trial proceedings, violations of the rights and freedoms of citizens, as defined by articles 17, 46 and 48 of the code of penal procedure (i.e., detection of the use by inquiry and investigation bodies of illegal, unlawful and forbidden methods of treatment of suspects or accused persons), are included in group curricula for newly appointed judges, as well as for judges on criminal cases at the regional and district levels. Courses are also being organized on the examination by courts of complaints and petitions relating to torture or other unlawful methods.

93. In November 2002, a seminar for trainers was held on international human rights standards in the field of criminal law proceedings. The event was the initiative of the American Bar Association, the Office for Democratic Institutions and Human Rights (OSCE) and the National Human Rights Centre. Judges, lawyers, prosecutors, internal affairs bodies and national security service officials participated in the seminar. The aim of the event was to prepare national trainers, teachers and specialists to pass their skills on to students in educational institutions and professional development courses. The main document, the provisions of which are taught during such seminars, was the International Covenant on Civil and Political Rights, ratified by Uzbekistan in 1995. At the seminar, special attention was paid to the provisions of the Covenant and the Convention against Torture.

94. In the framework of the plan on the implementation of the recommendations of the Committee against Torture, the OSCE centre in Tashkent and the Department of Correctional Facilities of the Ministry of Internal Affairs are implementing a project aimed at increasing the level of legal literacy of penitentiary personnel and inmates and their awareness of basic international standards in human rights. As part of the project, the Department established its own training centre to retrain and improve the skills of correctional facility personnel.

95. International law was introduced as a compulsory subject in the educational institutions of law enforcement agencies, namely, the Academy of the Ministry of Internal Affairs, the Institute of the national security service, the Professional Development Centre for Lawyers of the Ministry of Justice and the Professional Skills Centre of the General Prosecutor's Office.

96. The Department of Investigation of the Ministry of Internal Affairs submitted to its superiors for consideration a proposal to introduce an assessment of officers on their knowledge of international human rights standards during certification of their skills and promotion to new positions or ranks. The proposal has received the backing of the highest levels of the Ministry of Internal Affairs. If approved, the new practice will be used for other law enforcement agencies in Uzbekistan.

97. The Ministry of Internal Affairs, with the financial support of the UNDP office in Tashkent and in collaboration with the National Human Rights Centre of Uzbekistan and other relevant Government agencies, published in Uzbek a compilation of the international human rights documents ratified by Uzbekistan and pertinent to the activities of law enforcement agencies.

98. The Department of Investigation and the Uzbekistan Bar Association developed, and implemented on 1 October 2006, a regulation on ensuring protection of the rights of detained, suspected and accused individuals during preliminary investigation and interrogation. Moreover, in order to further familiarize the parties involved in legal/criminal proceedings with their rights and obligations, as well as to enhance the legal literacy and awareness of the general public and of the personnel of all internal affairs departments and penitentiary facilities, information boards and posters on human rights were printed and posted in all departments and divisions of the Ministry of Internal Affairs.

99. In September 2004, with the assistance of the American Bar Association and the Embassy of Switzerland, 100,000 copies of the brochure "What should you know about your rights?" was published. The brochure is given to all individuals in

detention. All copies are published for the Ministry of Internal Affairs, and a similar brochure is to be prepared for prosecutors and the national security service.

100. The brochure "Prison management and human rights" was published recently. The results of the implementation of measures relating to the present recommendation were discussed at the meeting of the interdepartmental working group on 18 November 2004.

Recommendation (p)

101. In accordance with recommendation (p), an expert group was established, comprising representatives of the Ministry of Justice, the Ministry of Internal Affairs, the General Prosecutor's Office and the Ombudsman. The group developed a framework for the further development and improvement of the correctional system of the Ministry of Internal Affairs for 2005-2010. The framework envisages a review of the issues raised by the transfer of responsibility for the system from the Ministry of Internal Affairs.

Recommendation (q)

102. The application of articles 985 to 991 of the civil code of Uzbekistan, providing for compensation for moral and material damages incurred by persons subjected to torture or other cruel treatment, has been considered. This right is established by the decision of the plenary session of the Supreme Court dated 28 April 2000 relating to questions of the application of laws on compensation for moral damage.

103. Moreover, in order to improve the system of compensation and rehabilitation of torture victims within the framework of the plan on implementation of the recommendations of the Committee against Torture, and owing to its urgency, the matter is constantly monitored by the interdepartmental working group. Some positive results have been achieved. According to the data of the national security service, 490 million sum were paid as compensation in 2002, and 850 million sum and $450,000 in 2003.

Recommendation (r)

104. The revised version of the law relating to the appointment by the Oliy Majlis of an Ombudsman responsible for human rights issues was adopted in August 2004. On 30 September 2004, the law was published in all newspapers nationwide. Article 13 of the law describes the rights of the Ombudsman, including the right to consider complaints. Article 14 stipulates the right of the Ombudsman to meet and talk to detained or arrested persons. Under the same article, the Ombudsman may apply to relevant agencies to bring to account officials whose actions have constituted a violation of human rights and liberties.

105. Guarantees for the protection of human rights during the investigation of complaints by the Ombudsman are also laid down. Article 19 states that complainants, and the persons appointed by the Ombudsman to collect and analyse data and to conduct expert evaluations, will not be subject to persecution or be

restricted in their rights during their activities. Representatives of the Ombudsman have visited almost all correctional facilities.

106. Agreements on cooperation to guarantee human rights and freedoms were signed by the Ombudsman and the Ministry of Internal Affairs on 10 December 2004, as was a memorandum on cooperation between the Ombudsman and the Ministry of Justice, on 28 September 2005.

107. The issue of establishing an Ombudsman for prisons is currently being considered.

Recommendation (s)

108. According to resolution 239-33 of the Cabinet of Ministers of Uzbekistan relating to the protection of State secrets dated 5 May 1994, information on the date of execution of death sentences and the burial place of persons sentenced to capital punishment is classified a State secret and completely confidential. The provision is also laid down by article 140 of the correctional code. In accordance with international standards, the Ministry of Internal Affairs is currently developing an instruction on informing the relatives of persons sentenced to death. In the meantime, the proposals received from the General Prosecutor's Office, the Ombudsman and the Ministry of Justice are summarized by the Ministry of Internal Affairs. After completion, a draft law will be submitted to the Parliament of Uzbekistan.

109. The main thrust of the liberalization process of the judicial and legal system, as well as that of the criminal correctional system, is the gradual narrowing of the applicability of the death sentence. When Uzbekistan achieved independence, its penal code contained more than 30 articles providing for capital punishment. By 1994, the number of articles had been reduced to 13; by 1998, to 8; and by 2001, to 4. Today, following the implementation in 2003 of a set of measures on the liberalization of penal law, the death sentence is provided for only two crimes: deliberate murder with aggravating circumstances, and terrorism.

110. In penal law, the number of crimes for which capital punishment can be applied accounts for less than 1 per cent of all acts. Irrespective of the gravity of the crime, the application of this kind of punishment to minors, women and persons older than 60 is forbidden by law.

111. It is worth noting that the number of death sentences carried out is decreasing annually. If one compares figures of 2000 to those of 2004, it becomes clear that the number of death sentences executed decreased by almost nine times. During the period 2002-2004, 32 death sentences were commuted to terms of imprisonment.

112. Capital punishment has become a subject of constant discussion among the general public and the mass media; 238 television programmes, 463 radio broadcasts and more than 270 newspaper and journal articles were devoted to the discussion of the provisions of the decree on the abolition of capital punishment. Moreover, 23 scientific conferences, 148 seminars and 265 round tables were held on this issue. For example, in 2005-2006, with the assistance of the Friedrich Ebert Foundation, seminars were held in various cities of Uzbekistan (Tashkent, Bukhara, Samarkand, Nukus and Urgench) on the issue, with the participation of the

Bundestag member, the former Federal Minister of Justice of Germany, Herta Däubler-Gmelin.

113. The approach adopted by Uzbekistan to penal matters and to the application of capital punishment fully complies with international trends and reflects the principles of humanism and justice proclaimed by the Constitution of Uzbekistan.

114. On 1 August 2005, the President of Uzbekistan issued an historic decree on the abolition of capital punishment. Thus, Uzbekistan joined those States that have abolished the death penalty. It is important to note that the measure is not a simple moratorium on capital punishment, as is sometimes the case in other countries, where convicted persons can wait for years, but is a case of total abolition. Thus, as from 1 January 2008, capital punishment will be abolished and be replaced by long-term or life imprisonment.

115. Today, a wide range of legislative, informative and organizational initiatives are being implemented to accompany the abolition of capital punishment and its replacement by long-term or life imprisonment, amendments and additions are being made to and prepared for the penal code, the correctional code and the code of penal procedures. On 29 June 2006, the President of Uzbekistan issued a decree on additional measures to prepare legislative and normative acts for the abolition of capital punishment in the Republic of Uzbekistan.

116. The abolition of capital punishment will require awareness-raising work with the general public; first of all, to make clear why it needs to be abolished. As an annual sociological survey of the population by a non-governmental body indicated, more than 75 per cent of respondents opposed the abolition of capital punishment.

117. It will be necessary to implement organizational measures, including the construction of facilities to house people in detention whose death sentence has been commuted to life or long-term imprisonment, as well as for training personnel to work in these facilities.

118. Complete abolition of capital punishment will take more than two years. It will be completely abolished on 1 January 2008. The total abolition of the death sentence as an exceptional criminal punishment will be in compliance with universally recognized principles and norms of international law, as well as with the provisions of the Constitution of Uzbekistan proclaiming the right to life.

Recommendation (t)

119. In 2003, the representatives of European Union embassies (France, Germany, Italy, the Netherlands and the United Kingdom of Great Britain and Northern Ireland) in Uzbekistan twice visited prison UJA 64/71 in Jaslyk. In 2003, journalists from France Press, Associated Press, Reuters and BBC Radio also visited the prison. From 25 to 28 July 2004, the Republican Commission, comprising representatives of the General Prosecutor's Office, the Ombudsman, the Ministry of Justice, the National Human Rights Centre and the Ministry of Internal Affairs, assessed living conditions in the prison. The Commission found that the conditions in the facility were up to standards. At the same time, however, the interdepartmental working group decided that conditions in the prison needed to be improved and monitored on a regular basis. In 2004, the adviser to the United States Ambassador to Uzbekistan on socio-economic and political issues, Sylvia Curran, and the Director of Freedom

House in Uzbekistan, Mjusa Sever, visited the prison. In October 2004, it was also visited by the regional adviser of the Office of the United Nations High Commissioner for Refugees on human rights in Central Asia, Rein Mullerson, and the Deputy Director of the National Human Rights Centre of Uzbekistan. The visitors assessed positively the activity of the facility and expressed their readiness to continue and strengthen cooperation.

Recommendation (u)

120. In 2003 and 2004, the Department of Correctional Facilities received from the Ministry of Foreign Affairs 18 appeals from the Human Rights Committee concerning 31 people sentenced to death and whose cases were being monitored by the Committee. Of that group, 15 were executed (Sh. Andasbaev, U. Eshov, I. Babajanov, M. Ismailov, M. Mirzaev, A. Uteev, O. Ruzmetov, U. Ruzmetov, O. Makhmudov, N. Bazarov, O. Kupalov, B. Yusupov, J. Madrakhimov, I. Sunnatov and A. Karimov) before the appeals were received. The death sentence of 7 others (A. Kornetov, A. Isaev, N. Karimov, E. Gugnin, F. Karaev, I. Karimov and S. Alisov) was commuted to a term of imprisonment. The execution of 8 persons (F. Nasmbulin, I. Khudaiberganov, Sh. Juraev, F. Alimov, A. Buryachek, I. Ibragimov, Sh. Baibulatov and S. Kadirov) was suspended pending the examination of their petitions by the pardon board of the President of Uzbekistan. During that period, the execution of persons whose cases had been admitted for consideration by the Human Rights Committee was suspended when the appeals were received. In accordance with the recommendations of the Special Rapporteur, State agencies have introduced the temporary measures recommended by the Human Rights Committee, namely, the suspension of the execution of persons whose cases are under consideration by the Human Rights Committee and for whom an appeal has been submitted by the Committee to the Government.

121. The draft law on amendments and additions to the correctional code of Uzbekistan has been prepared. According to the draft law, formal notification by the Human Rights Committee that the case of a person sentenced to death has been submitted for consideration by the Committee constitutes grounds for a suspension of the sentence.

Recommendation (v)

122. At this time, the interdepartmental working group is developing proposals for the implementation of article 22 of the governmental action plan as well as for submitting reports to the Committee against Torture, as stipulated by article 22.2 of the action plan.

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Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives

Letter dated 27 October 2006 from the Permanent Representative of Myanmar to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a memorandum on the situation of human rights in the Union of Myanmar (see annex).

I should be grateful if the present letter and its annex could be circulated as a document of the General Assembly, under agenda item 67 (c).

(*Signed*) Kyaw Tint **Swe**
Ambassador
Permanent Representative

06-59446 (E) 101106

Annex to the letter dated 27 October 2006 from the Permanent Representative of Myanmar to the United Nations addressed to the Secretary-General

Memorandum on the situation of human rights in the Union of Myanmar

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06-59446

MEMORANDUM ON THE SITUATION OF HUMAN RIGHTS *IN THE UNION OF MYANMAR*

I. Introduction

1. The General Assembly at its 60th session adopted on 23 December 2005 a resolution entitled, " Situation of human rights in Myanmar " (resolution 60/233). The country-specific resolution was initiated by the European Union. Myanmar rejected the unsubstantiated allegations in the resolution and dissociated itself from its adoption.

2. The resolution is patently wrong. The allegations are baseless and emanate from remnants of insurgent groups and anti-government elements who are carrying out a disinformation campaign, aided and abetted by some Western countries. It is a blatant attempt by those countries to channel the political process in Myanmar in the direction of their choice. This is in contravention of the Charter of the United Nations, both in letter and spirit.

3. Accordingly, in the Third Committee of the 60th session of the General Assembly a motion was proposed to adjourn the debate on the draft resolution. The motion won the widespread support of the Non-Aligned Movement member countries but was opposed by the Western countries. Myanmar considered that it was inappropriate for the Third Committee to devote time on a country-specific human rights situation as the Human Rights Council had been established with the adoption of the General Assembly resolution 60/251.

4. On 15 September 2006, a powerful State, in pursuit of its political agenda, manipulated to unjustifiably place the issue of Myanmar on the Security Council agenda alleging that Myanmar poses a threat to international peace and stability. This move not only displayed a glaring abuse of the mandate of the Security Council by its Member State, but also revealed, once again, its real intention. Myanmar enjoys close and cordial relations with all her neighbours and it can by no means threaten peace and security of any country, let alone regional or international peace and security.

5. This Memorandum is circulated to provide accurate information on the developments on various aspects that have taken place in Myanmar. These include the sustained efforts made by the Government to fulfill the right to development of the 54 million people of Myanmar.

II. Brief Political Background of Myanmar

6. Myanmar is a multi-ethnic sovereign country where over 100 ethnic nationalities have lived in weal and woe since time immemorial. Unfortunately, the country fell under the colonial domination in 1885. Seeds of discord and disunity were sown among the nationalities as a result of the "divide and rule" policy of the British colonialists. Consequently, three months after Myanmar regained independence on 4 January 1948, numerous armed insurgencies broke out in the country. This tragic situation was prolonged over five decades and affected the country's stability. It took a heavy toll on the country politically, economically and socially. Successive governments were unable to find a lasting solution to the problem of insurgency in the country. It was only under the present government that the insurgency problem was resolved.

7. The *Tatmadaw* (the Armed Forces) was compelled to assume responsibilities of State in September 1988 to stem the anarchy and lawlessness that had pushed the country to the brink of disintegration. The *Tatmadaw* Government abolished the single party socialist system as well as the rigid centralized economy and embarked on instituting reforms for a multiparty democratic system and a market-oriented economy.

8. The Government realized that as long as national unity cannot be consolidated on a firmer footing, a vast array of issues would continue to persist, impeding national endeavours. It therefore enunciated a set of 12 political, social and economic objectives to address fundamental issues facing the nation. It initiated a process to consolidate national unity. Accordingly, the Government gave top priority to building national unity and made peace overtures to all armed groups with sincerity and goodwill.

9. These efforts resulted in the return to the legal fold of 17 out of 18 armed insurgent groups with different political affiliations who are now extensively engaged in respective regional development programmes. The Government is still continuing its efforts to hold peace talks with the last remaining armed group, the KNU. A ceasefire with all the 17 armed groups remains in place and the representatives of these groups are actively participating in the National Convention process.

10. Today, the insurgency problem has virtually come to an end. Peace and stability now prevails in almost all corners of the nation, paving the way for the Government to focus its attention on the economic development of the country including the far-flung border areas. This constitutes an unprecedented striking political achievement in the consolidation of national unity.

11. The Government convened a National Convention in 1993 with the participation of the National League for Democracy (NLD) to formulate basic principles for drafting of an enduring democratic State constitution. However, in 1995, the NLD boycotted the process and withdrew its participation. For that reason the Convention had to be adjourned until 2004. The unilateral move by the NLD thus delayed the process.

12. The National Convention was reconvened from 17 May 2004 to 9 July 2004 as the first and foremost crucial step of the seven-step road map for transition to democracy, which was announced by the Government on 30 August 2003. The NLD was also invited to attend the first resumed session, but NLD, after initially accepting the invitation to attend the reconvened National Convention, reversed its stand just 3 days before the scheduled opening of the first session and did not participate.

13. The National Convention has held four sessions. It convened its fourth session on 10 October 2006 and is now in progress to debate on the remaining chapters. The National Convention is the only forum where all strata of the society including representatives of ethnic groups and political parties are represented. The Government firmly believes that the Convention is the only forum that can guarantee a smooth transition to democracy in Myanmar.

14. The Government is striving to ensure stability of the State, economic development and democratic reform as aspired to by the people. In order to transform the nation into a modern, developed and disciplined democratic State, the Government has been laying down the necessary foundations, namely ensuring the prevalence of peace, tranquility and the rule of law; accelerating economic progress; and human resource development. Substantial progress is being made in building firm foundations for the future democratic nation.

III. Recent political developments in Myanmar

15. On 30 August 2003, the Government of Myanmar outlined a seven-step road map for transition to democracy. The road map was welcomed overwhelmingly in the country and was well received by neighbours and friends of Myanmar. The Association of Southeast Asian Nations (ASEAN), at its Summit held in Bali, Indonesia, in November 2003, welcomed the positive developments in Myanmar and characterized the road map as a "pragmatic approach deserving understanding and support". The Secretary-General of the United Nations in response to a communication from the Prime Minister of the Union of Myanmar in September 2003, also stated that he was encouraged by the adoption of the Government of its own road map for a transition to democracy and committed the United Nations to help facilitate the effort.

16. The Government has been steadfastly implementing the seven-step road map to democracy. The first crucial step of the road map was the reconvening of the National Convention on 17 May 2004. The Convention was attended by 1,088 delegates. Of the total, 633 were from the national races. In addition, 105 delegates, representing 17 major and 17 smaller armed groups, who returned to the fold, also attended the Convention.

17. The National Convention has met in four sessions since the announcement of the seven-step road map in August 2003 and is making substantial progress as 75 percent of its work has already been completed.

18. As the issues are complex, discussions at the National Convention are intense, requiring patience and tact. With national solidarity being the top priority of the country, due regard is given to the views expressed by the national races which are accommodated as far as possible. It is essential to strike a balance and to incorporate the different points of views expressed by various groups with fairness in the interest of the national races on the one hand, and that of the nation as a whole on the other.

19. After the National Convention has laid down the basic principles, the new Constitution will be drafted and subsequently presented to the people in a referendum. Subsequently, free and fair elections will be held in which the people of Myanmar will elect leaders of their choice. The process of transformation of the country into a democratic State will move ahead step by step in accordance with the road map.

IV. Cooperation with the United Nations

20. Cooperation with the United Nations is the cornerstone of Myanmar's foreign policy. Myanmar has been consistently cooperating with the United Nations in many fields including in the area of human rights. Although Myanmar has dissociated itself consistently from the resolutions on the Situation of Human Rights in Myanmar due to their high degree of politicization, to demonstrate the spirit of cooperation with the United Nations, Myanmar welcomed the visits of former Special Envoy of the Secretary-General Mr. Razali Ismail to the country on 14 occasions and the Special Rapporteur of the Commission on Human Rights, Professor Paulo Sergio Pinheiro on 6 occasions during his 6-year mandate.

21. Myanmar is consistently cooperating with the United Nations in the field of human rights by providing necessary information and responding to communications sought by the UN bodies such as the Commission on Human Rights and its country and thematic rapporteurs.

22. The Government of Myanmar also maintains close contact with senior officials of the United Nations. In April 2005, the Head of State of the Union of Myanmar H.E. Senior General Than Shwe met and held discussions with the Secretary-General of the United Nations at the Asia-Africa Summit in Jakarta and extended an invitation to the Secretary-General to visit Myanmar.

23. Myanmar's desire to cooperate with the United Nations was further demonstrated in welcoming the visit to Myanmar of Mr. Ibrahim A. Gambari, Under- Secretary-General for Political Affairs of the United Nations, in May 2006. During his visit, Mr. Gambari called on the Chairman of the State Peace and Development Council in the new administrative capital and exchanged views on issues of mutual interest. The visit was deemed as successful by all concerned and constituted a new chapter in Myanmar's relationship with the United Nations. The Government has also invited him to visit Myanmar again in the near future.

24. The Government of Myanmar also welcomed the visit of the Deputy Executive Director of the UNICEF Mr. Kul Gautam in August 2006. The Secretary I of the State Peace and

Development Council Lt. Gen Thein Sein, who is also the Chairman of the Committee for the Prevention of Military Recruitment of Under-age Children, received the Deputy Executive Director of UNICEF and exchanged views on cooperation between Myanmar and UNICEF including issues such as protection of children as well as immunization against measles. He was also apprised of the developments in the country as well as the measures taken by the Government to prevent the recruitment of under-aged children into military service.

V. Combating Illegal Narcotic Drugs

25. According to the UNODC's Report 2005, opium production in Myanmar declined from 2,560 tons to 292 tons, constituting over 80 per cent decrease over a span of eight years from 1996 to 2004. The World Drug Report 2006 also mentioned that in 2005 the total area under opium poppy cultivation decreased by a further 26 percent.

26. The US Government Drug Strategy Report 2005, also acknowledged that opium poppy cultivation in Myanmar declined by 34% in 2003-2004 alone. This data resulted from the joint opium yield survey conducted annually by Myanmar and the United States.

27. Myanmar's success in its war on illicit narcotic drugs was brought about by the Government's firm political will, the end of insurgencies in remote border areas and its effective implementation of its 15-year National Plan for Drugs Elimination since 1999 aiming at total eradication of narcotic drugs by 2014. The 15-year Plan was also complemented by the New Destiny Project which has been initiated since April 2002 to provide support for alternative cash crops to poppy growers who voluntarily surrendered poppy seeds to the authorities. The Government has also destroyed the seized drugs on several occasions successively for the past eighteen years in the presence of diplomatic corps and media.

28. Myanmar's achievements in the fight against illicit narcotic drugs could also be attributed to concrete steps in prevention, treatment and community-based control of drug abuse, including the promotion of alternative development and elimination of illicit drug trafficking and bilateral, regional and international cooperation. At the regional level, Myanmar is working together with the other members of ASEAN to reach its common goal of making the region free from drugs by 2015. Moreover, it has also signed an MOU with six sub-regional countries for the creation of a Greater Mekong Sub-region drugs free zone.

29. Myanmar has signed and ratified international legal instruments relating to control of narcotic drugs and maintains close cooperation with the UNODC. Myanmar spares no efforts to address the emerging threat posed by methamphetamine-type stimulant drugs. In fact, Myanmar neither produces nor imports the precursor chemicals used in the production of these drugs. Myanmar is also closely cooperating with its neighbours for interdiction of these precursor chemicals and in the eradication of the production of methamphetamine-type drugs.

VI. Promotion and Protection of Human Rights

30. Myanmar recognizes that the process of promoting and protecting human rights should be conducted in conformity with the purposes and principles of the Charter and international law. Human rights issues must be addressed with objectivity, respect for national sovereignty and territorial integrity and non-interference in the internal affairs of States. Myanmar firmly believes that there should not be double standards nor politicization of human rights issues.

31. Promotion and protection of human rights must be addressed in a global context through a constructive, dialogue-based and non-confrontational approach. Myanmar believes that only cooperation rather than politicization of human rights issues could bring about better improvements in remedying the human rights situations in the world.

32. Like many developing countries, Myanmar attaches great priority to fulfilling the right to development of its entire population. It has been tirelessly striving for the all round development of the country, including the border areas where majority of ethnic nationalities live. The Government has also invested huge amount of its resources for the border areas and rural development programmes.

33. Myanmar strongly supports the position of the Non-Aligned Movement which opposes and condemns selectivity and double standards in the promotion and protection of human rights and exploitation of human rights as pretext for political purposes.

34. Myanmar has long been a victim of a systematic and effective disinformation campaign launched by anti-government elements, generously funded by some Western quarters. Through the internet, they are exploiting every sensitive issue to smear the image of the government in pursuit of their own political agenda. The groundless allegations emanating from anti-government elements have gradually found their way into the Special Rapporteur's reports. Thus, there is a growing need for a thorough verification of the validity of information and the reliability of its sources before including them in the reports of the United Nations.

35. Myanmar is a party to the Convention on the Elimination of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC). A National Human Rights Committee was formed in April 2000 and the Committee has been actively engaged in the promotion and protection of human rights. Starting from 2004-2005 academic year, human rights lessons have been introduced as part of the official curriculum in the middle and high schools.

VII. Allegations about Internally Displaced Persons

36. The vast number of the so-called refugees on Myanmar-Thai border are illegal economic migrants, a view shared both by Myanmar and Thailand. The rest are insurgents and their families, who fled across the border having failed in their armed insurrection. Myanmar and

That authorities have worked out an understanding to resolve the issue of illegal economic migrants by making arrangements for them to become legally documented migrant workers.

37. The return of almost all major armed groups to the legal fold has led to the establishment of peace and stability in the country, including in the border areas where the insurgents used to operate. Only the Kayin National Union (KNU) and the remnants of the former narco-trafficking armed groups are fighting the Government. Counter insurgency campaigns are restricted to a few localities and conducted only against those insurgents that are engaged in acts of terrorism. This is to protect the life and property of peace loving citizens. Since the clashes with the insurgents in the border areas are merely skirmishes restricted to a few localities, they can in no way result in situation of a humanitarian crisis as alleged. The allegations are fabricated and propagated by the insurgents who have fled across the border and their families living under the pretext of refugees, aided and abetted by some organizations opposing the Myanmar Government.

38. There are people living in northern part of the Rakhine State, wrongly labelled as "Rohingya". In reality, they are illegal migrants who through the magnanimity of the Myanmar Government had been allowed to settle there. The matter has been resolved between Myanmar and Bangladesh in a friendly and amicable manner. Since 22 September 1992, over 230,000 returnees have been accepted by the Myanmar Government under safe and voluntary conditions. There remain some 6247 persons to be repatriated whose identities have already been verified. Myanmar has not yet stopped receiving those wishing to return voluntarily. The doors are kept open to welcome back those who meet the requirements. In this regard, Myanmar has been cooperating with Bangladesh and the UNHCR.

VIII. Child Soldiers

39. The emotive issue of child soldier was exploited by the anti-government groups in cooperation with some NGOs to tarnish the image of Myanmar. The allegation that Myanmar had thousands of child soldiers is preposterous. This groundless allegation emanates from an NGO citing the result of an interview with 20 or so insurgents by a freelance reporter inside a neighbouring country. No United Nations Agency in Myanmar has verified this highly-inflated figure. Yet, this falsehood was cited in the report of the Secretary-General on Children and Armed Conflict. The elements of this report eventually found its way into the resolution on the situation of human rights in Myanmar. It is the practice of insurgent groups to recruit and use child soldiers, as testified by the Special Rapporteur on the situation of human rights in Myanmar in his report (E/CN.4/2003/41).

40. In fact, military service is voluntary in Myanmar and under the Myanmar Defence Services Act and the War Office Council directive 13/73, a person cannot enlist in the armed forces until he has attained the age of 18. There is neither a draft system nor forced conscription by the Government. Forced conscription in any form is strictly prohibited. Those who are found to contravene these instructions have had action taken against them under

military law. The army has instituted scrutiny and inspection procedures and it does not accept those who do not conform to the minimum age requirement.

41. The Government established a Committee for the Prevention of the Military Recruitment of Under-age Children on 5 January 2004 to effectively address the issue of under-age recruits. The Committee has also set up a Task Force comprising representatives from relevant line Ministries. The Committee adopted a Plan of Action on 5 October 2004 which includes recruitment procedures, procedures for discharge from military service, reintegration into society, public awareness measures, punitive action, reporting measures, submission of recommendations and consultation and cooperation with the international organizations concerned.

42. As part of the implementation of the Plan of Action, a new Directorate was established on 23 July 2004 under the Office of the Adjutant-General to oversee strict adherence to the orders, regulations and directives in selection process of new recruits, in particular to ensure compliance with the minimum age requirement of 18 years. Military recruits, if found to be under 18 years at the training centres or in the military service, are discharged.

43. Over the years the Government of Myanmar had taken concrete steps to prevent recruitment of under-age children into the military. The Committee for the Prevention of Military Recruitment of Under-age Children was enlarged and reinstituted on 3 February 2006 to further strengthen its endeavours. Members of the Committee have made extensive field trips to various regions and have conducted a number of meetings with the Defence Services officials throughout the country. During the field trips, they launched an extensive campaign to promote awareness and stricter enforcement of laws and regulations on recruitments among the military establishments, training institutions and local communities in various parts of the country. Those activities, which include holding of awareness seminars, have contributed significantly in preventing the recruitment of under-age children. Strict enforcement of age limit has resulted in turning away under-age children from joining the army at the screening stage before recruitment. Between 2002 and 2004, a total of 210 children found to be under-aged were discharged from military service. As a result of ongoing screening procedures, 40 more under-age recruits were discharged from their military service during 2005-2006.

44. Myanmar is not a nation in a situation of armed conflict. As 17 out of 18 armed insurgent groups have returned to the legal fold, unprecedented peace and stability is prevailing in almost every corner of the country. However, under tremendous political pressure from some quarters, Myanmar Army (*Tatmadaw Kyi*) has been unjustifiably listed in the report of the Secretary-General on the situation of the Children and Armed Conflict. The leaders of Myanmar at the highest level have repeatedly stated that Myanmar army does not recruit soldiers under 18 into military service by law or by practice. The political will of the Government to address the issue has been repeatedly stated by the Permanent Representative of Myanmar to the United Nations on many occasions.

IX. Trafficking in Persons

45. Myanmar regards combating trafficking in persons as a national task and has made considerable progress in its fight against human trafficking both in the national and regional context. The Government has instituted awareness-raising activity campaigns coupled with effective law enforcement measures. In addition to the existing Penal Code which contains legal provisions for heavy penalty against perpetrators, the Government enacted the Anti-Human Trafficking Law in September 2005. Nationwide preventive and supportive activities, such as awareness raising among the community and its leaders, capacity building of its volunteers, including educational talks on trafficking and violence against women. Supportive services are conducted extensively by the national NGOs. The Myanmar Women's Affairs Federation is also actively engaged in taking measures to prevent trafficking for sexual exploitation including publicizing dangers in borders areas through discussion groups, distribution of printed materials and media programming.

46. Myanmar believes that trafficking in persons is a grave transnational issue and that the elimination of this threat can be ensured only through a coordinated and collective response of all countries concerned. Myanmar has therefore actively participated in the Bali process at the regional level. In a strengthened regional multi-sectoral response in the Greater Mekong Sub-region (GMS) through the Coordinated Mekong Ministerial Initiative (COMMIT), an agreement was signed in Yangon in October 2004 for cooperation among the GMS countries. As a follow-up to that agreement, a Plan of Action to fight human trafficking was adopted in Hanoi in 2005.

47. In March 2004, Myanmar acceded to the United Nations Convention against Transnational Organized Crime and two of its Supplementary Protocols, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air. The Anti-Human Trafficking Law which was recently enacted in Myanmar further demonstrated Myanmar's commitment to combat human trafficking in line with the UN Convention against Transnational Organized Crime.

48. The US State Department, in its annual Report in 2006, has alleged that Myanmar does not comply with the minimum standards for the elimination of trafficking in persons and unjustifiably listed Myanmar in Tier 3 of its unilateral classification of such countries. Myanmar has totally rejected the report as it was politically motivated.

49. The Report of the State Department however did acknowledge that Myanmar has made efforts to combat trafficking in persons with regard to prosecution and protection as well as in taking preventive measures. Myanmar has already passed anti-human trafficking law carrying a maximum penalty of life imprisonment. Over a thousand traffickers have already been prosecuted since 2002. The Government is also providing basic reintegration assistance to victims, and has developed a teaching curriculum on trafficking. Myanmar remains committed to combating trafficking in persons in both national and regional context, regardless of negative views from those who blindly refuse to recognize the on-going efforts of the Government.

X. Allegations of Forced Labour

50. Myanmar and the International Labour Organization (ILO) have enjoyed good and cooperative relations since Myanmar joined the Organization in 1948. It is unfortunate that only after four decades of Myanmar's membership, its traditional practice of contributing labour for community projects was seen in negative light and brought before the ILO. The anti-government groups in the disguise of free trade unions exploited the labour issue to pursue their political agenda to bring the issue to the ILO. This eventually led to the filing of complaints by the workers group in June 1996 against Myanmar for the alleged non-observance of ILO Convention 29 (Forced Labour Convention of 1930).

51. In the past, some provisions of the Village Act and Towns Act of 1907, which the Government inherited from the British colonial administration, were alleged to be in conflict with Convention 29. Although those Acts had been in force since 1907, the allegations of forced labour were never leveled critically against Myanmar at the ILO before. The Government of Myanmar to demonstrate its willingness to cooperate with the ILO took the necessary legislative, executive and administrative measures in 1999 and issued two legislative orders: Order 1/99 and Order Supplementing Order 1/99, thereby bringing the domestic legislation in line with Convention 29. Myanmar has since been cooperating with ILO in resolving the issue of forced labour.

52. As part of its cooperative measures with ILO, the Government invited the ILO Technical Cooperation Mission to Myanmar four times during 2001-2002. A high level team of the ILO (HLT) paid a two-week visit to Myanmar in September and October 2001. An agreement between the government and the ILO in March 2002 led to the appointment of an ILO Liaison Officer in Myanmar. The Government of Myanmar fully cooperated with the ILO Liaison Officer a.i. in dealing with the complaints relating to requisition of forced labour. Actions had been taken against all 50 cases in 2004 and further 8 cases in 2005 reported by the ILO Liaison Officer a.i. A Joint Plan of Action was also initialed by the Government of Myanmar and the ILO in Geneva and Yangon. However, the Joint Plan of Action could not be implemented mainly because some in the ILO attempted to link the implementation with extraneous issues not related to labour.

53. Myanmar also welcomed the visit of a very High-Level Team from ILO (vHLT) in February 2005. The Prime Minister of the Government of the Union of Myanmar received the Team on 22 February 2005 and, in his letter of 10 March 2005 to the vHLT, reiterated Myanmar's commitment to the elimination of the vestiges of forced labour in close cooperation with the ILO. Just a week after the visit of the vHLT to Myanmar, a focal point in the armed forces for dealing with Convention 29, headed by Deputy Adjutant-General and assisted by seven General Staff Officers (Grade-1), was established on 1 March 2005.

54. Despite the positive steps taken by the Government of Myanmar, the 93rd International Labour Conference held in June 2005 reactivated the punitive resolution adopted at its 88ths session. This decision provoked a strong emotional reaction domestically in the country, as the

ILO ignored the plight and suffering of the majority of workers in Myanmar, especially women workers in textile sectors due to the impact of the economic and trade sanctions unilaterally imposed by certain Western countries.

55. Nevertheless, Myanmar is firmly committed to the eradication of forced labour in the country and is exploring every avenue on how to cooperate with the ILO in a mutually constructive manner in the time and space available to Myanmar. A moratorium of six months on a trial basis has been set concerning taking of action against those who submit false cases of forced labour. Both Myanmar and the ILO are involved presently in discussions for the establishment of a mechanism to handle cases of alleged forced labour. A senior level ILO mission visited Myanmar in October 2006 to continue negotiations on the issue. The Special Rapporteur on the Situation of Human Rights in Myanmar has acknowledged the progress made in Myanmar's cooperation with the ILO in his recent oral presentation to the Third Committee.

XI. Religious Tolerance

56. Although Buddhism is the religion of the majority of the people, other religions such as Christianity, Islam and Hinduism coexist and flourish in Myanmar. Buddhism is based on tolerance and *metta* (loving kindness). The Government encourages and maintains inter-religious harmony, and freedom of worship is guaranteed by law and practice. In downtown Yangon, a Pagoda, a Church, a Mosque and a Hindu Temple can be seen standing side by side in the vicinity, testifying to the religious harmony and tolerance in Myanmar. Madame Sadako Ogata, a leading United Nations personality, after her visit to the country cited Myanmar as a "model society" for religious tolerance. Any allegations of religious intolerance in Myanmar are groundless and politically motivated.

XII. Economic and Social Development

57. When the Government took over State duties in 1988, it inherited a deteriorating economic situation under a failing centrally planned economic system. Some critics even predicted that the economy would survive only a few months due to lack of foreign reserves at that time. That proved to be wrong.

58. The Government has made a drastic shift in economic policy, replacing the centrally planned economic system with market-oriented economic system. It has also taken a series of economic reform measures. The Government made a firm resolve to strive for all-round development in a systematic manner by opening its doors to foreign investments and encouraging private sector. Short-term and long-term economic plans were implemented systematically. During the period from 1989-90 to 1991-92, the government focused upon restoring stability in the country while implementing plans to halt the economic slide. In the following years, the economy grew by 7.5 percent during the period from 1992-93 to 1995-96 and 8.5 percent during the period from 1996-97 to 2000-2001.

59. Under the Third Short-Term Five-Year Plan (2001-02 to 2005-06), the economy improved with an average annual growth of 12.5 percent yearly between 2001-2002 and 2004-2005. During 2005-2006 financial year, the average economic growth rate reached 13.2 percent. Per capital income has also significantly increased from Kyat 1800 in 1988 to Kyat 221,217 at present. The salary scales of different levels of the government service have been raised 5 to 11 folds since April 2006. Even the recent report of the IMF acknowledged that Myanmar could achieve 7 percent economic growth this year citing increase in exports of natural gas. Myanmar is not only a food exporting country but also becoming a major source of energy supply in the sub-region.

60. When the first Human Development Report by UNDP came out in 1990, Myanmar was placed in the third category: countries enjoying low human development. Myanmar's steady progress in development was reflected when starting from 7 years back we were elevated to the second category: countries enjoying medium human development. The Human Development Report 2005 gives Myanmar's average annual GDP growth rate between 1990 and 2003 as 5.7 percent. The Governme t of Myanmar, as such, is able to bring about a better standard of living for her people.

61. During its tenure, the Government has made massive investments in infrastructure developments resulting in construction of 179 dams, 208 major bridges and 36,000 miles of roads and 1100 miles of railroads. With a view to narrowing down the gap between rural and urban areas, the Government has been implementing the three National Development Programmes, namely (i) Border Areas Development Programme; (ii) Plan for 24 Special Development Zones and (iii) Integrated Rural Development Plan. This has resulted in significant progress in various sectors, such as health, education, infrastructure and agriculture. Myanmar has scored discernible achievements in carrying out its National Development Programmes reflecting the Millennium Development Goals.

62. In education sector, the Government has been implementing 30-year long-term national education promotion plan. New schools numbering 6778 and 189 universities have been opened in the States and Divisions and the nation has now one school in every one-and-half-mile radius, enabling all citizens to have literacy skills. The adult literacy rate has now reached 94.1 percent, youth literacy rate 94.4 percent; and net primary school enrollment has reached 97.58 percent this year. The Government spares no effort to improve the quality of education. Reforms in the official curriculum and assessment methodology have been undertaken and the use of ICT is strongly encouraged.

63. Health indicators speak for themselves. According to multiple indicator cluster surveys in Myanmar, the total percentage of population with sustainable access to safe drinking water improved from 32 percent in 1990 to 72 percent in 2000, exceeding the Millennium Development Goals of reaching 66 percent by 2015. Access to improved sanitation also increased during the past decade from 36 percent in 1990 to 83 percent in 2000. Myanmar is now free from diseases such as small pox, leprosy and polio. Myanmar has also launched immunization programmes against measles every year since 1987 and the proportion of 1-year

old children immunized against measles has reached 87 in 1998. With a view to reaching total immunization coverage, a programme for vaccination of more than 13 million children against measles is scheduled to commence in November this year with the cooperation of WHO and UNICEF.

64. The under 5 mortality rate had been reduced from 77.7 per 1000 live births in 1999 to 66.6 in 2003. Remarkable progress has also been made in Myanmar's universal salt iodization programme. More than 86 percent of households are now consuming iodized salt and prevalence of goiter dramatically dropped from 33 percent in 1994 to 5.5 percent in 2004.

65. The Government has designated HIV/AIDS, malaria and tuberculosis as diseases of national concern and is taking effective measures to address these serious challenges. The National Malaria Control Programme is also under implementation by the Government with its goal being to reduce 50 percent of malaria morbidity and mortality by 2010. The National AIDS Programme and the Joint UN programme for HIV/AIDS have drawn up a joint Programme of Action, covering education, prevention, cure and rehabilitation to address the issue. As a result, the Government is not only able to level the HIV/AIDS infection rate but have been able to reduce it. Myanmar has thus made significant progress in its efforts to achieve the MDGs by 2015 particularly in areas such as health, education, access to safe drinking water and improved sanitation.

66. Despite the unilateral economic restrictions imposed by some Western countries and their blockage of assistance from international financial institutions for decades depriving the country its right to development, the Government of Myanmar is making progress in its all-out efforts to achieve development throughout the country relying on its own resources to fulfill the economic and social needs of its own people.

XIII. Conclusion

67. Notwithstanding the economic and social progress achieved through the determined efforts of the Government, there are those who are sounding a false alarm that Myanmar's economy is in shambles with a looming humanitarian crisis and that situation of food security is precarious. This allegation is unfounded and is contrary to the FAO's latest assessment which stated that Myanmar has a low level of under-nourishment of only 5 percent of its population. Moreover, according to the FAO's statistics, food supply in Myanmar has improved since the beginning of 1990s.

68. Since the regaining of her independence in 1948, Myanmar had had to face challenges posed by the ethnic insurgencies. Today, armed insurgency has virtually come to an end in almost every corner of the country. This has resulted in unprecedented prevalence of peace and stability nationwide, providing opportunities for enhanced development activities for the ethnic nationals in the border areas and for the national reconciliation process.

69. Myanmar enjoys close and cordial relations with all her five neighbours and other countries in the region and does not engage in activities aimed at undermining the peace and security of any country. Myanmar by no stretch of the imagination can be considered a threat neither to regional nor international peace and security.

70. Myanmar is today on a delicate path in transition towards democracy. Maintenance of the hard won peace and stability and national unity remains the highest priority.

71. Myanmar has special characteristics that are unique. The democratization process cannot be done overnight. It must be handled with care to avoid bitter experiences of other countries in a similar situation.

72. Undue pressures from outside without understanding of the challenges faced by Myanmar can only hinder the on-going homegrown political process and further complicate the situation. International community can best help Myanmar through understanding, encouragement and cooperation.

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Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives

Letter dated 1 November 2006 from the Permanent Representative of Uzbekistan to the United Nations addressed to the Secretary-General

I have the honour to forward the comments of the Republic of Uzbekistan on the report of the Secretary-General on the situation of human rights in Uzbekistan (A/61/526) (see annex).

I would appreciate it if you could circulate the present letter and its annex as a document of the sixty-first session of the General Assembly, under agenda item 67 (c).

(*Signed*) Alisher **Vohidov**
Permanent Representative

06-60343 (E) 141106 201106

Annex to the letter dated 1 November 2006 from the Permanent Representative of Uzbekistan to the United Nations addressed to the Secretary-General

[Original: Russian]

Comments by the Republic of Uzbekistan on the report of the situation of human rights in Uzbekistan (A/61/526) of 18 October 2006*

Summary

The present comments by Uzbekistan are submitted in response to the report on the situation of human rights in Uzbekistan (A/61/526) of 18 October 2006, prepared pursuant to General Assembly resolution 60/174 of 16 December 2005. It is evident from the content of the report that its compilers lacked any objective information about the actual situation relating to human rights in Uzbekistan or were unwilling to use such information, notwithstanding the repeated submission by the Uzbek authorities of detailed information on all the issues raised in the report. Uzbekistan does not accept most of the assertions made in the report and calls for the repudiation of attempts to discredit the lofty ideals of the United Nations by resorting to political machinations, double standards and a selective approach to information.

I. Introduction

1. Uzbekistan remains convinced that the consideration of the human rights situation in the country at the sixtieth session of the United Nations General Assembly was undertaken without any real justification and that it had nothing to do with the actual state of affairs in Uzbekistan but pursued other goals altogether.

From the very first days of Uzbekistan's independence, priority has been accorded to upholding and protecting human rights. The Uzbek Government abides by the principle of the supremacy of human interests and does all in its power to uphold the universally accepted rights and freedoms of its citizens. Sovereign States should endeavour to improve their democratic institutions on the basis of their own history, culture and traditions. Accordingly, in joining the generally held view that the United Nations needs to be reformed to bring it more closely into line with modern realities, Uzbekistan is convinced that international organizations should set as their priority the promotion of development, including that of democratic institutions, while respecting the domestic choices and particular traditions of the plenipotentiary members of the United Nations.

2. Uzbekistan points out that the Uzbek Government did not provide any information on the implementation of resolution 60/174 (A/60/914, annex), but set forth its position on the substance of the issues raised in the resolution.

* Headings and paragraph numbers in the present report correspond to those in the report of the Secretary-General (A/61/526).

II. Implementation of General Assembly resolution 60/174

A. Developments relating to the aftermath of the Andijan events

Implementation of the recommendations contained in the report of the mission to Kyrgyzstan of the Office of the United Nations High Commissioner for Human Rights

3. The substance and findings of the report of the OHCHR mission that visited Kyrgyzstan from 13 to 21 June 2005 do not reflect the real situation and are based on allegations by individuals who took part in activities of a terrorist nature and who also managed to secure their unauthorized release from places of detention in which they were being held for the commission of criminal offences.

The OHCHR report was prepared in violation of the principles of the mandate of the High Commissioner, as set forth in General Assembly resolution 48/141 and Security Council resolutions 1269 (1999) of 19 October 1999 and 1373 (2001) of 28 September 2001, which stipulate that refugee status is not to be granted to terrorists.

As for the independent international investigation into the events that took place in Andijan in May 2005, the Republic of Uzbekistan, as an independent and sovereign State which has at its disposal all the necessary resources to conduct a full-scale investigation into the circumstances surrounding the tragic events in Andijan, is fully entitled, on its own authority, to take a decision to investigate matters pertaining to its national security and lying exclusively within its own jurisdiction. In accordance with the rules of international law, an international inquiry is only carried out when the State itself requests the conduct of such an inquiry, on the grounds that its own authorities lack the competence to conduct it or in the event of the collapse of the State, and also if the situation which has arisen poses a direct threat to the maintenance of international peace and security.

4. The request by the Special Rapporteur on extrajudicial, summary or arbitrary executions of the then Commission on Human Rights was received shortly after the Andijan events. At that time the country's law-enforcement agencies were conducting wide-ranging investigations, on the outcome of which judicial hearings were held. As a result, the country's law-enforcement system was operating under particular stress.

5. Uzbekistan remains firmly convinced that the Committee on the Rights of the Child has competence to consider matters relating to implementation of the Convention on the Rights of the Child. Accordingly, Uzbekistan is somewhat nonplussed by the observation by that Committee urging it "to establish an independent commission of inquiry into the incidents of 13-14 May 2005 in Andijan, and to invite ... special procedure mandate holders ... to visit the country", which lacks any firm basis. For its part, Uzbekistan urges the Committee on the Rights of the Child to desist from activities which do not fall within its competence.

6 and 7. Immediately after the tragic events in Andijan, the Uzbek Government announced its undertaking to conduct a transparent and objective investigation. An independent parliamentary commission of inquiry and an international task force to monitor the inquiry, comprising members of the diplomatic corps accredited to

Tashkent, were set up and furnished with all the necessary conditions to ensure the impartiality of the findings.

The Western countries rejected the invitation by the Uzbek authorities and refused to join the international monitoring group, thereby manifesting their unwillingness to engage in cooperation and dialogue.

Trials related to the events in Andijan

8. A public trial was held from 20 September to 14 November 2005 of 15 persons who had been actively involved in organizing and conducting the events in Andijan. During the trial, observers had the opportunity to familiarize themselves with all the investigation materials, statements by witnesses, victims and civil plaintiffs and with the entire body of evidence (audio and video materials, findings of numerous forensic studies, incident scene reports, confiscated weapons, some seized during raids on paramilitary facilities and others brought in by terrorists from outside, etc.). In essence, the OSCE/ODIHR experts were able to follow the entire process of examination by the court of the body of evidence described above.

The ODIHR report does not cite a single recorded violation of due process during the legal proceedings. The report is replete with mere allegations that have no foundation in fact.

The ODIHR report puts forward a biased and unsubstantiated finding that ODIHR representatives were denied free access to defendants and case materials.

Under the Uzbek Code of Criminal Procedure, the questioning of suspects, persons charged with offences and defendants in trials, together with other procedural actions during the pretrial investigation stage, is conducted by officials carrying out the initial inquiry, investigators, procurators and judges, with the participation of legal counsel.

The provisions referred to above and existing practice are not at variance with the rules of international law or, in particular, the OSCE human dimension commitments, to which ODIHR refers in its report.

9. In their references in the report to the use of unverified sources, the OSCE/ODIHR representatives are groundlessly questioning the fairness of the trial. All defendants were provided with the services of lawyers, who had free access to their clients.

Throughout the proceedings the OSCE representatives were able to observe for themselves the examination of the statements of victims, civil plaintiffs and witnesses (some 300 people in all). They were also able to witness the direct adversarial nature of the trial, which was conducted with the participation of defence lawyers — groundlessly described in the report as inadequate defence.

The ODIHR representatives chose to ignore the fact that both sides (defence and prosecution) enjoyed identical conditions and opportunities for the impartial and adversarial conduct of the trial.

From the very outset the lawyers took an active part in the proceedings, ensuring that the interests of the defendants were fully protected from the moment of their arrest, throughout the pretrial investigation and also in the court itself.

Neither during the pretrial investigation, nor during the trial itself did the defendants apply for their defence lawyers to be dismissed and replaced with others.

During the proceedings, the presiding judge afforded the lawyers every opportunity to question the defendants and to conduct cross-questioning for the benefit of their clients, opportunities to which they had frequent recourse.

The right to call witnesses was not the only right accorded them by the court. The determination of the questions to be put to witnesses and the defence tactics to be employed is the universally accepted prerogative of the lawyers themselves and no other participant in the legal proceedings interfered with this prerogative. The lawyers representing the defendants came from legal aid bureaux and private law firms. They are all independent of the State and other law-enforcement agencies.

Incontrovertible evidence that the defence services provided by the lawyers was effective may be seen in the fact that a number of charges against the defendants were dropped, significantly affecting the sentences that were handed down.

In all, 128 victims, 50 civil plaintiffs and 103 witnesses were questioned; a video recording was shown to complement the findings of the comprehensive forensic study, itself based on video recordings taken by the terrorists themselves; audio recordings were played of conversations between the Minister of Internal Affairs, M. Z. Almatov, and the provincial *hokim*, or governor, S. Begaliev, on the one side and Kobil Parpiev on the other, and of the terrorists themselves; and dozens of slides, taken during the course of the investigation, were displayed showing pieces of material and written evidence. In addition, during the trial, a study was made of more than 2,000 findings based on various expert studies relating to the criminal case.

The unfounded allegations made by ODIHR clearly betray the authors' ignorance of the principles and rules underlying the criminal procedure law of the Republic of Uzbekistan, as well as a manifestly biased attitude to this trial, the defendants in which are accused of a number of serious offences.

10. The apparent concerns expressed by ODIHR regarding the presence of relatives of the defendants in the court room are completely out of proportion, since most of the relatives of the defendants had swiftly absconded from Uzbekistan the moment the events started and had fraudulently acquired the status of refugees in distant foreign countries.

The Supreme Court gave an advance announcement of the commencement of the trial and those persons, including human rights defenders, who wanted to attend the proceedings had unrestricted access to the court room. At the same time, however, no applications were submitted by the defendants' relatives to attend the proceedings. There were no restrictions on the attendance of relatives, nor were any reports or complaints submitted to the law-enforcement authorities or to the court regarding such restrictions.

11. The conduct and outcome of the trial provide further evidence that the investigative and evidentiary proceedings were in full compliance with Uzbek procedural law and with the universally recognized rules of international law.

In addition, this trial was held in an extremely transparent manner and was also accessible to the entire international community through representatives of

diplomatic missions and international organizations, and also through foreign correspondents. It might be noted that such an approach to the conduct of legal proceedings, which could not be more democratic, is not found in the judicial practice of most United Nations Member States. The substance of the ODIHR report and recommendations is nothing less than absurd, as it flies in the face of incontrovertible evidence scrutinized during the legal proceedings.

12. In response to the request from the High Commissioner for Human Rights to send monitors to observe the trial of the 15 men charged in connection with the Andijan events, the Government of Uzbekistan expressed its willingness to engage in cooperation with the Office of the High Commissioner based on the principles of objectivity and respect for national law and confirmed that it had no objection to representatives of the Office observing the trial, but would not be able to grant them access to the places where the defendants were held in custody, to the materials of the investigation or to procedural actions, which would have been counter to Uzbekistan's national law.

13, 14 and 15. Some of the trials of participants in the terrorist acts were held in camera, by order of the court and in accordance with article 19 of the Uzbek Code of Criminal Procedure, which stipulates that the safety of victims, witnesses and other persons involved in a case must be ensured.

All these judicial proceedings were held in conformity with the procedural rules and in strict compliance with international standards and with the rules of Uzbek law. During the trials the adversarial principle was upheld with the participation of lawyers, and by ensuring that the defence and the prosecution had identical conditions and opportunities for the impartial conduct of the proceedings.

16. Uzbek judges also heard criminal cases involving 36 members of internal affairs agencies and the military, who were found guilty of negligence and dereliction of duty, which had resulted in the seizure by terrorists of the UYa-64T-1 correctional facility, of a battalion of the border patrol service of the Andijan internal affairs department and a large arsenal of weaponry, and were sentenced to various terms of deprivation of liberty, and also to punitive deduction of earnings and confinement in disciplinary barracks.

Situation of eyewitnesses and others reporting on the Andijan events

17. Allegations that eyewitnesses of the Andijan events, as well as journalists, media officers and human rights defenders, were harassed and detained are unfounded.

Following the tragic events in Andijan, detective work was carried out to identify the culprits involved in the commission of criminal offences and to elucidate all the circumstances surrounding the events. All these actions were conducted in accordance with the law and were dictated by the interests of national security, in a manner comparable, for example, to the measures conducted by the United States authorities after the events of 11 September 2001 or by the British authorities after the explosions in London in July 2005.

Uzbek law guarantees the right of every citizen to freedom and personal safety.

18. In response to a request from the Office of the Uzbek Procurator-General, on 9 August 2006 five Uzbek citizens were extradited to Uzbekistan by the Kyrgyz

authorities to stand trial for offences committed on Uzbek territory. They are being held in the correctional facility in Andijan.

The pretrial investigation relating to their cases is being conducted in full compliance with the rules of Uzbek criminal procedure law and a ruling will be handed down on the basis of the findings of that investigation, also in accordance with the law.

The persons in question have been charged with the commission of serious offences, including, in particular, aggravated homicide, terrorism and attacks on the constitutional order of the Republic of Uzbekistan.

The decision by Kyrgyzstan to extradite the Uzbek citizens was fully consistent with the provisions of the United Nations Convention relating to the Status of Refugees of 1951, since, pursuant to article 1 of the Convention, its provisions shall not apply to persons in respect of whom there are serious reasons for considering that they have committed serious non-political crimes outside the country of refuge prior to their admission to that country as refugees.

In addition, pursuant to the Universal Declaration of Human Rights, everyone has the right to seek and to enjoy in other countries asylum from persecution but this right may not be invoked by persons who have committed crimes.

19. In September 2005 the Uzbek authorities informed the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the question of torture and the Chair-Rapporteur of the Working Group on Arbitrary Detention about the voluntary — and not forcible, as stated in the report — return to Uzbekistan of the four Uzbek citizens.

There are no grounds for apprehension about the fate of these Uzbek citizens, since their physical and moral integrity and their rights are fully protected by the State.

20 and 21. In Uzbekistan's view, the "concerns" expressed by OHCHR and UNHCR about the allegedly increasing number of Uzbek asylum-seekers and refugees are unfounded. It should be noted that in July and August 2006 53 Uzbek citizens returned of their own volition from the United States of America. These persons, in company with other Uzbek citizens who had been forced by terrorists at gunpoint to cross over into Kyrgyzstan, were accorded refugee status under false pretences and were promptly flown by UNHCR from Kyrgyzstan to Romania.

As for the allegation about the "forceful deportation" of Uzbek citizens from Ukraine, this procedure was conducted in full compliance with international rules, including the Convention relating to the Status of Refugees, and existing bilateral arrangements.

The rights of returnees are fully upheld, in accordance with the provisions of Uzbek law and with the fundamental international human rights instruments, including the Universal Declaration of Human Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to both of which Uzbekistan is a party.

The Uzbek authorities have no information regarding the five persons alleged to have disappeared in July and August 2006 in southern Kyrgyzstan.

B. Cooperation of the Government of Uzbekistan with United Nations human rights bodies and mechanisms

Office of the High Commissioner for Human Rights

22. Immediately after the terrorist acts in Andijan, the Uzbek authorities reaffirmed their commitment to the conduct of a transparent and objective inquiry into the events. An independent parliamentary commission was set up, together with an international task force to monitor the investigation, comprising members of the diplomatic corps accredited to Tashkent.

The judicial hearings to consider that part of the criminal proceedings held in response to the terrorist acts in Andijan were open to the public. Representatives of the diplomatic corps, of international organizations, including the United Nations, OSCE/ODIHR, UNHCR, the Shanghai Cooperation Organization, and of international human rights organizations had free access to the court room.

No restrictions of any kind were placed by the judicial authorities on people wishing to observe the proceedings, which were held in strict compliance with Uzbek law.

The Uzbek Government declared itself willing to cooperate with the High Commissioner for Human Rights and his office, in the spirit of General Assembly resolution 48/141, stressing the need to respect the sovereignty, territorial integrity and domestic jurisdiction of sovereign States.

23. OHCHR has conducted two missions to Uzbekistan (in 2002 and 2004). During the visits, the Office's delegation had meetings in the Constitutional Court, the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Internal Affairs, the Office of the Procurator-General, the Commissioner for Human Rights of the Oliy Majlis and also with heads of the offices of international organizations and members of the diplomatic corps in Tashkent. One of the principal goals of the missions was to develop a regional project for Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan on the provision of technical assistance in the field of human rights. From the moment preparation of this project was launched, all four Central Asian countries affirmed their willingness to take part in that process. Despite that, some five years later OHCHR has still not submitted the final version of the regional project to the Central Asian countries for their consideration. Furthermore, in June 2006 OHCHR chose to ignore Uzbekistan's insistent and duly substantiated request that it not appoint Matilda Bogner to the post of regional representative for the OHCHR Central Asia project, as her performance while head of the Human Rights Watch office in Tashkent in matters relating to human rights in Uzbekistan had been extremely biased and subjective.

Special procedures of the Commission on Human Rights

24. In 2002, Uzbekistan — the first of the countries of the former Soviet Union to take such a step — invited the United Nations Special Rapporteur on the question of torture, Theo van Boven, to visit the country and see the situation for himself. In March 2004, the Uzbek Government adopted its plan for the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which also made provision for implementation of the recommendations of the Special Rapporteur. The plan has been fully put into effect. The relevant

information was transmitted in good time to the United Nations Commission on Human Rights and, more recently, to the Human Rights Council.

25, 26 and 27. As the requests are received, the Uzbek authorities provide exhaustive information on the human rights situation in Uzbekistan and on various individual Uzbek citizens to the United Nations special procedures (Special Rapporteur on extrajudicial, summary or arbitrary executions, Special Rapporteur on the independence of judges and lawyers, Special Representative of the Secretary-General on the situation of human rights defenders, Special Rapporteur on freedom of religion or belief and others).

Treaty bodies

28. Uzbekistan has ratified the International Covenant on Civil and Political Rights and its First Optional Protocol, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child and the Convention on the Prevention and Punishment of the Crime of Genocide and it has signed the Rome Statute of the International Criminal Court.

The Uzbek Government is currently studying the question of acceding to the Second Optional Protocol to the International Covenant on Civil and Political Rights and the two optional protocols to the Convention against Torture, ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and recognizing the competence of the Committee on the Elimination of Discrimination against Women, the Committee against Torture and the Committee on the Elimination of Racial Discrimination to consider individual communications.

29. Over the last two years Uzbekistan has submitted six national reports to United Nations treaty bodies which have already been considered. These are: the second periodic report to the Human Rights Committee; the initial report to the Committee on Economic, Social and Cultural Rights; the third, fourth and fifth reports to the Committee on the Elimination of Racial Discrimination and the second periodic report to the Committee on the Rights of the Child. Its second periodic report to the Committee against Torture is still awaiting consideration.

30. Following the consideration of its national reports by the United Nations treaty bodies, Uzbekistan is elaborating and putting into effect national plans of action to implement the recommendations by the treaty bodies. Non-governmental organizations and the media are extensively involved in this work, alongside government agencies.

Over the last year five national plans of action have been developed for the implementation of the recommendations of the Human Rights Committee, the Committee against Torture, the Committee on the Elimination of Racial Discrimination, the Committee on Economic, Social and Cultural Rights and the Committee on the Elimination of Discrimination against Women.

An interdepartmental working group is in operation in Uzbekistan, headed by the Minister of Justice, with responsibility for the conduct and coordination of work to monitor implementation of the national plans of action.

Procedure established in accordance with Economic and Social Council resolution 1503 (XLVIII)

31. From the outset the Uzbek Government has not accepted assertions that the human rights situation in its country is at variance with universally accepted rules and standards. For that reason Uzbekistan opposed consideration of the issue of the human rights situation in Uzbekistan in the Commission on Human Rights, as undertaken at its sixtieth and sixty-first sessions, and also at the second session of the Human Rights Council.

Consideration of Uzbekistan's situation in the Commission was initiated by a certain group of States for specific geopolitical motives which had nothing to do with human rights in Uzbekistan.

Uzbekistan invited the previous independent expert of the Commission on Human Rights, Mr. L. Huseynov, to visit the country in October 2004 and it afforded him all necessary assistance. He visited all the facilities which were of interest to him, had the opportunity without restriction to meet representatives of civil society and of the Government.

Notwithstanding the assistance provided by the Uzbek authorities to the former independent expert, he failed to give a true picture of the human rights situation in the country.

This failure was of considerable significance in bringing about the adoption of a decision by the Commission on Human Rights at its sixty-first session on continuing its consideration of the human rights situation in Uzbekistan under the confidential 1503 procedure, although there was no justification or grounds for discussing the issue of Uzbekistan within the Commission.

In December 2005 Uzbekistan furnished the Commission's independent expert Mr. M. Picard with exhaustive replies to all the questions that had been raised, prepared with the assistance of a number of ministries and government departments. The expert was given comprehensive details about the implementation of the recommendations contained in his predecessor's report.

In the preparation of his own report, however, Mr. Picard chose to ignore the official information provided by Uzbekistan and the report was largely based on unverified facts and allegations.

Actions of this sort are likely to cause conflicts in the operation of United Nations institutions and will lead to the further politicization of the human rights agenda.

C. Cooperation of the Government of Uzbekistan with United Nations bodies in Uzbekistan in the area of human rights

Human rights activities of the Office of the United Nations High Commissioner for Refugees

32. In 1993, when UNHCR opened its office in Uzbekistan, it included among its principal tasks organizing the repatriation to their home country of Tajik refugees from Afghanistan and Turkmenistan and rendering humanitarian assistance to refugees in Afghanistan. In the performance of these tasks, and also to ensure that

the UNHCR office was able to operate fully and efficiently, the Uzbek Government, acting in the spirit of friendly cooperation, gave the UNHCR office in Tashkent every assistance.

Thanks to the end of the civil war and the stabilization of the situation in Tajikistan, together with the end of military hostilities in Afghanistan, the Tajik refugees were able to return to their country with assistance from UNHCR and the Uzbek Government.

In 2004, with support from the Uzbek Government, the UNHCR office in Tashkent was able to complete its programme of delivering humanitarian assistance to Afghanistan through the territory of Uzbekistan.

Given the measures described above, by working in cooperation and harmony with the people and Government of Uzbekistan, the UNHCR office in Tashkent was able to complete all the tasks assigned to it and UNHCR was duly apprised of this.

33. Uzbekistan is currently studying the possibility of drafting its own legislation on migration, drawn up in conformity with international rules and standards, which will include a link with the 1951 Convention relating to the Status of Refugees and its protocol.

Human rights projects of the United Nations Development Programme

34. UNDP is active in Uzbekistan in the fields of education, health care, environment, energy, trade, law and tax administration, with a view, among other things, to strengthening civil society in the country. It is currently carrying out 47 projects at a total cost of $15 million.

In the field of human rights, UNDP actively cooperates with the Uzbek National Human Rights Centre, the Ombudsman's office and other government and non-governmental bodies.

Human rights activities of the United Nations Children's Fund

35. In fulfilment of its international obligations, the Republic of Uzbekistan is actively cooperating with UNICEF in issues relating to the rights of children, protection of children from abuse and exploitation, the drafting of a law on juvenile justice, the establishment of the institution of a children's ombudsman, and others.

D. Cooperation of the Government of Uzbekistan with other organizations and institutions in the area of human rights

Organization for Security and Cooperation in Europe

36. Pursuant to decision 734 of 30 June 2006 of the OSCE Permanent Council, the post of Project Coordinator in Uzbekistan was established to replace the OSCE office in Tashkent.

This new cooperation arrangement will make it possible to focus the work of the OSCE field office on the practical implementation of major projects of priority importance.

Under that same decision, the main tasks of the Project Coordinator in Uzbekistan are to be the following:

- To assist the Government of Uzbekistan in its efforts to ensure security and stability, including fighting against terrorism, violent extremism, illegal drug trafficking and other transnational threats and challenges;
- To support the efforts of the Government of Uzbekistan with regard to further social and economic development and the protection of the environment in the Republic of Uzbekistan;
- To assist the Government of Uzbekistan in the implementation of OSCE principles and of its commitments taken within the OSCE framework, including those related to the development of civil society, as well as in the development of cooperation between the Republic of Uzbekistan and OSCE.

European Union

37. Uzbekistan stands ready to develop constructive cooperation with the European Union on the basis of the principles of equality, mutual respect and non-interference in internal affairs.

Uzbekistan takes a positive view of the current development of dialogue with the Union. In particular, on 29 August 2006 Uzbekistan was visited by the European Union "troika" and at the current time a European Union delegation is in the country, headed by the European Union Special Representative for Central Asia, Mr. P. Morel, and the next meeting of the European Union-Uzbekistan Cooperation Council will be held in early November.

Uzbekistan was ready to proceed with the scheduled meeting of the Parliamentary Cooperation Committee, which was postponed yet again at the behest of the European Union.

International Committee of the Red Cross

38. On 17 January 2001, an agreement was concluded between the Government of the Republic of Uzbekistan and the International Committee of the Red Cross on cooperation in humanitarian activities for detained or imprisoned persons.

Pursuant to the agreement, ICRC personnel are granted the right to visit places of detention exclusively for humanitarian purposes. During such visits, the ICRC representatives have the right to inspect the physical and psychological conditions of detention and to meet with the detainees.

In the period 2001-2002 there were several visits to places of detention: four visits in 2001 and eight in 2002. In 2003 delegates of the International Committee of the Red Cross (ICRC) made 43 visits, covering eight correctional colonies and five remand centres. ICRC delegates met alone with prisoners over 660 times. In 2004 ICRC delegates made 35 visits to 30 colonies and 19 visits to nine remand centres. During these visits they conversed with prisoners in confidence on 898 occasions. Over the period 2003-2004 ICRC delegates visited virtually all the places of confinement in the Republic of Uzbekistan, and the duration of their visits was unrestricted.

Given the steady increase in compliance with the conditions for visiting on the part of the authorities and more transparent cooperation with the governors of penal institutions, on 13 December 2004 the regional delegation of ICRC suspended its visits to places of detention in the Republic of Uzbekistan.

The work of ICRC is valued in Uzbekistan and it is felt that fruitful bilateral cooperation can only be achieved through dialogue. Uzbekistan considers it important to resolve the problems which hinder this process without excessive political engagement and on terms of confidentiality.

On 20 September 2006 the current situation was discussed at a meeting in the Ministry of Foreign Affairs with Mr. Boris Michel, the head of the ICRC regional delegation for Central Asia.

E. Developments relating to the implementation of General Assembly resolution 60/174: human rights issues

Fair and accessible trials

39. Uzbekistan has given exhaustive replies to the communications from the Special Rapporteur on the independence of judges and lawyers, as and when they have been received. The concern of the Special Rapporteur about the situation in Uzbekistan is unfounded and is not borne out by the facts.

To secure complete and satisfactory legal protection of the rights and freedoms of detained persons and suspects, the central investigations department of the Ministry of Internal Affairs, together with the Bar Association of Uzbekistan, has prepared and introduced a regulation on the procedure for securing the right to a lawyer for detainees, suspects and accused persons at the initial inquiry and pretrial investigation stages. As a result of introducing this regulation, the conduct and discipline of officials of the Ministry of Internal Affairs came under tighter supervision, which made it possible to stop all unlawful actions on their part towards detainees, suspects and accused persons.

With a view to enhancing protection for citizens' rights against unlawful actions by State agencies and officials responsible for criminal procedure, and to ensure that they observe and comply with the requirements of the Constitution and the criminal procedure law, guidance was provided in decision No. 12 of 24 September 2004 of the Plenum of the Supreme Court of Uzbekistan concerning the basic requirements for the admissibility of evidence.

The actions of the prosecution authorities and the courts are based on the principle that when a person is charged and a verdict reached, no reliance may be placed on inadmissible evidence obtained by unlawful means, nor may such evidence be relied upon as grounds for any decision.

40. Uzbekistan is a party to the First Optional Protocol to the International Covenant on Civil and Political Rights and has recognized the competence of the Human Rights Committee to consider communications to the Committee from citizens of the Republic of Uzbekistan. Accordingly, the views expressed by the Committee on these communications are addressed to the country's competent authorities, so that they can study them and take the appropriate measures. The Human Rights Committee is kept informed of the outcome of that process.

Decree on the introduction of habeas corpus

41. The decree of the President of Uzbekistan on transferring to courts the right to issue sanctions for arrest of 8 August 2005 is confirmation of the further

liberalization of the judicial system by extending the powers of the courts to adjudicate.

The transfer to the courts of the right to issue sanctions for arrest means that the decision whether a person's freedom is to be restricted is made in public, in the presence of the suspect, the suspect's lawyer, the public prosecutor and other persons concerned. This in turn considerably strengthens the legal guarantees of the liberty of citizens involved in criminal proceedings at the stage when the decision to arrest has to be made. The introduction of this proviso where remand in custody is at issue shows that Uzbekistan is unswervingly complying with international standards for the protection of human rights. This represents further progress in strengthening the powers and authority of the judiciary as a guarantor of the effective protection of human rights.

As for the preparations for transferring to the courts the right to issue warrants for the arrest of suspects or persons accused of crime, measures are being drawn up to provide training for judges and for the staff of procuratorial offices and investigation departments of the Ministry of Internal Affairs and the National Security Service.

42. The Uzbek Government has taken note of the willingness of the Office of the High Commissioner to assist in the implementation of the decree.

Abolition of the death penalty

43. In accordance with a decree of 1 August 2005 of the President of Uzbekistan, the death penalty is to be abolished from 1 January 2008.

The Government is aware that abolishing the death penalty will entail a sustained public information exercise so as to inculcate greater understanding of the need for further liberalization of the penalties for crime. This public information exercise will have considerable financial and organizational implications.

A number of measures are now being introduced in Uzbekistan to amend and supplement national legislation in the light of international experience, and to create the necessary conditions for abolishing the death penalty. In order to step up the work of preparing the laws and regulations which are necessary in order to implement the provisions of the decree, and to transmit them in a timely manner for consideration by the legislative chamber of the Oliy Majlis (Parliament) of Uzbekistan, a working group has been established to prepare the documents in question for adoption, so that the death penalty can be abolished in the Republic of Uzbekistan.

44. Since the date of issuance of the decree, in line with the generally recognized principles and rules of international law and the provisions of the Constitution of the Republic of Uzbekistan which proclaim and underpin the right to life, not one death sentence of a convicted person has been carried out.

Question of torture

45 and 46. The report of 21 March 2006 of the Special Rapporteur on the question of torture, following up the implementation by countries of his recommendations, cannot be objective because it is based on unsubstantiated assertions which are not borne out by the facts.

The prohibition against torture, which is laid down in national law, is absolute and does not admit of any exceptions. Those guilty of torture are prosecuted in accordance with the law.

Cases of torture are handled in a transparent manner, as can be seen from the openness of the investigation into the notorious cases involving the deaths of two Uzbek citizens, Andrei Shelkovenko and Samandar Umarov. This investigation in Tashkent was attended by representatives of the United States and Russian embassies, the international organizations Freedom House and Human Rights Watch, foreign criminal law specialists and forensic experts from the United States of America and Canada.

As for the communications of the Special Rapporteur, most of them are based on unsubstantiated assertions. When these communications are received, the Uzbek Government puts out official information which is not always taken into account by the Special Rapporteur.

47 and 48. Uzbekistan has devised and fully executed a plan for the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The concern of the Committee on the Rights of the Child about the allegedly numerous reports of torture and ill-treatment of persons under 18 years of age, and the insufficient efforts of the State party to investigate allegations of torture and prosecute the alleged perpetrators, is groundless.

The Government of Uzbekistan, using all the resources and opportunities available to it, is carrying on a tough and unrelenting struggle against any and all violations of human rights, including torture. In 2003 amendments to this effect were made to article 235 of the Criminal Code, on the use of torture and other cruel, inhuman and degrading treatment, which is punishable by deprivation of liberty for periods of between three and eight years.

The term "torture" in national legislation is defined in accordance with article 1 of the Convention against Torture, and this is laid down in a decision of the Supreme Court of the Republic of Uzbekistan dated 19 December 2003.

Those guilty of torture are prosecuted according to law.

49. The views of the Committee on the individual cases mentioned in this paragraph of the report are under consideration by the relevant government departments of the Republic of Uzbekistan.

It should be noted that according to article 140 of the Criminal Code of the Republic of Uzbekistan, when the death penalty has been carried out the responsible officials of the government organ which has executed the penalty are obliged within three days to inform the court which handed down the sentence, and that court then notifies the immediate relatives of the convicted person.

Freedom of religion or belief

50. The assertion that the criminal law is used to penalize the peaceful exercise of freedom of thought and religion is unfounded.

According to the law of the country, every citizen of the Republic has the right to profess any religion, or none.

In Uzbekistan, which is home to members of 15 religious creeds, State policy on the encouragement of religious rights and freedoms provides broad opportunities for religious organizations to carry on their activities. Article 18 of the Constitution of Uzbekistan guarantees equal rights for all citizens, whatever their sex, race, nationality, language, religion, belief, social origin or status.

The Freedom of Conscience and Religion Act clearly defines the role and status of religious organizations and their interaction with government organs, and also fully guarantees the right of citizens to profess their religion, perform ceremonies and rituals and make pilgrimages to holy places, both individually and in groups.

Believers have the right freely to observe all religious holidays.

The Government of Uzbekistan ensures complete freedom for religious organizations and does not impose restrictions on their numbers or the places in which they may operate. All religious organizations, from the largest (the Muslim Board of Uzbekistan and the diocese of Tashkent and Central Asia) to the smallest, have the same rights and obligations.

The Uzbek Government regularly provides information to the Special Rapporteur on freedom of religion or belief about the country's policy in the area of freedom of conscience and religion.

51. The Freedom of Conscience and Religion Act, articles 5 and 9, prohibits activities aimed at converting the adherents of one faith to another (proselytism) or any other missionary activity. Religious education by private individuals is also prohibited.

Currently, however, there are individuals and groups that are trying to engage in religious activities in defiance of existing legislation and to entice as many people as possible to join them.

Administrative measures, in the form of fines, are imposed on those who infringe the law, but they are not arrested or detained, as alleged in the report.

To date, no complaints of any kind have been received from registered religious organizations claiming oppression or restrictions on their activities.

Neither the Freedom of Conscience and Religion Act nor the rules on registration contain any restrictions on registration or on the number of registered organizations. There are also no time restrictions on registration.

52. In the territory of Uzbekistan, the persecution of believers simply for their adherence to a particular faith is prohibited. The Freedom of Conscience and Religion Act prohibits religious or any other form of fanaticism or extremism, activities aimed at arousing opposition or exacerbating relations or fomenting hatred among various religions and sects. Coercive dissemination of religious views is also prohibited.

Registration of political parties and their ability to participate in the electoral process

53. The registration of political parties is carried out by the Ministry of Justice, in accordance with the Political Parties Act, within one month of receipt of an application. Under article 5 of the Act, the State guarantees the protection of the

rights and lawful interests of political parties and provides them with equal legal opportunities for them to pursue their statutory aims and objectives.

Under article 8 of the Political Parties Act, for the establishment of a political party 20,000 signatures of Uzbek citizens must be obtained. This provision was modelled on international practice on the establishment and registration of parties.

Article 9 of the Political Parties Act provides a comprehensive list of grounds on which a political party may be refused registration. In the event of such a refusal, the Ministry of Justice informs an accredited member of the party's governing body accordingly, drawing attention to the legal provisions with which the documents that have been submitted are not in conformity. An appeal against a refusal of registration of a political party may be lodged with the Supreme Court of the Republic of Uzbekistan.

54. On 6 March 2006, the Tashkent Municipal Criminal Court found Mr. S. Umarov guilty of the misappropriation of a substantial amount of property as leader of an organized criminal group, falsification of official documents and bribery and also of deliberate tax evasion and the laundering of assets acquired by unlawful means and sentenced him to 14 years and six months' imprisonment.

On 10-13 April 2006, as the result of a review of the case following an appeal, the Tashkent Municipal Appeal Court sentenced Mr. Umarov to 10 years and six months' imprisonment, together with a withdrawal of his right to engage in business for a period of five years. In accordance with article 6 (b) of the decision of the Senate of the Oliy Majlis of Uzbekistan on amnesty in connection with the thirtieth anniversary of the adoption of the Constitution of the Republic of Uzbekistan, the original sentence was reduced by a quarter.

Ms. N. Khidoyatova, convicted of concealing foreign currency, establishing a fraudulent business, evasion of taxes and other payments, breaches of the rules of trade or service provision, falsification of official documents and laundering of assets acquired by unlawful means, was sentenced on 1 March 2006 to 10 years' imprisonment and a withdrawal of the right to hold a management position or a post involving material responsibility for three years.

In May 2006, the Tashkent Municipal Criminal Appeal Court, after considering the prosecutor's challenge to any reduction of sentence and an appeal by the defence, changed the sentence to a suspended sentence of seven years' deprivation of liberty with a three-year probationary period. Ms. Khidoyatova was released from custody in the courtroom.

Activities of civil society, including non-governmental organizations

55. In December 2005, the Uzbek Parliament adopted additions and amendments to the Code on Administrative Liability. These are not new provisions, as stated in the report, but amendments aimed primarily at introducing transparency to the activities of non-governmental organizations and increasing their responsibility for the strict discharge of their statutory functions.

As for the question of fines, it should be pointed out that such measures are not new — they already feature in Uzbek legislation — and, second, that non-governmental organizations that carry out their activities in accordance with their statutes and existing national legislation have no cause for concern.

56. The "grave concern" expressed by the Special Representative of the Secretary-General on the situation of human rights defenders with regard to these amendments is groundless, since the State is entitled to use legal mechanisms against those who infringe the law, with a view to maintaining the supremacy of the law as understood in accordance with international standards rather than by applying some arbitrary interpretation.

57. Statements alleging growing pressure on non-governmental organizations over the past months do not correspond to reality and are not borne out by the facts.

58. From the first years of its independence, Uzbekistan has attached great importance to the formation of civil society, among the most important components of which are non-governmental organizations.

In Uzbekistan, non-governmental organization activity is supported and guaranteed by the State. A sound legal basis for their activities has been established. The Constitution of the Republic of Uzbekistan enshrines the guarantees extended by the State to non-governmental organizations, which act as a unique bridge between the State and society.

There are currently over 5,000 non-governmental organizations, including international non-governmental organizations, operating in Uzbekistan. Among their number are the Uzbek Committee for the Protection of the Rights of Individuals, the Uzbek branch of the international organization Human Rights Watch, the Centre for the Study of Human Rights and Humanitarian Law, the Independent Human Rights Organization of Uzbekistan, the Ezgulik Human Rights Association of Uzbekistan, the Democracy and Human Rights Institute, and others.

Uzbekistan considers that civil society institutions should serve to reinforce the ideas that have historically been characteristic of the Uzbek people, such as tolerance and harmony among peoples, religions and cultures.

In Uzbekistan, however, as in most countries, the rule of law is paramount. This applies also to non-governmental, non-commercial organizations, if they seriously, and sometimes knowingly, breach their own statutes and the rules regulating their activities in the territory of the Republic of Uzbekistan.

Where the constituent and other documents of a non-governmental organization do not meet the requirements of Uzbek law, particularly the Non-Governmental Non-Profit Organizations Act, the Voluntary Associations Act, the Political Parties Act, the Public Foundations Act and the regulations governing applications for registration of the statutes of voluntary associations operating in the territory of the Republic of Uzbekistan, that organization may be refused registration. An appeal against such a decision may be duly lodged before any of a number of courts.

59. The authorities cannot disregard the violation of domestic legislation by any non-governmental organization, whether Uzbek or international. This is precisely the context in which the issue of the closure of the branches of international non-governmental organizations in Uzbekistan must be examined.

The activities of the branches of the American Bar Association, Internews Network, the International Research and Exchange Board (Irex), Freedom House, the American Council for Collaboration in Education and Language Study (ACCELS), Counterpart International, the Central Asian Free Exchange (CAFE),

Global Involvement through Education, the Urban Institute, the Eurasia Foundation, the Partnership for Academic Education (PAD), Crosslink Development International and Vinrock International were terminated by court decision for infringement of their charters and domestic legislation.

Protection of journalists and functioning of independent media outlets

60 and 61. In Uzbekistan the work of journalists is supp rted and protected by the State. A solid legal basis has been established to ensure the freedom of media activities.

More than 10 pieces of legislation regulating media activities and protecting the professional activities of journalists have been adopted. They include the Mass Media Act, the Professional Journalists (Protection) Act, the Access to Information (Protection and Freedom) Act, the Publications Act, etc.

On 24 February 2006 the Government adopted resolution No. 33 approving the guidelines regulating professional activities of correspondents of foreign mass media, in order to promote the free and widespread dissemination of all forms of information and encourage cooperation with other States in this sphere in Uzbekistan.

Pursuant to this resolution the State guarantees the freedom of correspondents of foreign mass media to obtain and disseminate information, protects them in the conduct of their professional activities, and does not interfere in the professional activities of accredited foreign correspondents or request them to supply any information obtained in the course of their professional duties. Most of the foreign media in Uzbekistan are currently represented by Uzbek nationals, who are accredited by the Ministry of Foreign Affairs in the same way as foreign nationals. The media legislation is fully consistent with the rules of international law.

62, 63 and 64. The authorities cannot disregard the violation of domestic legislation by any mass media outlet, whether Uzbek or international.

According to its statute, the Institute for War and Peace Reporting is not a media organization. Its principal activity is the provision of humanitarian aid. For that reason the Ministry of Foreign Affairs declined to accredit it as a mass media outlet.

The status of representative of the Tashkent bureau of the Uzbek service of Radio Liberty/Radio Free Europe was used unlawfully by a number of "stringers" of Uzbek nationality, who carried out journalistic activities without accreditation by the Ministry, in violation of domestic legislation.

As a result of the infringement of the regulations governing the professional activities in Uzbekistan of correspondents of the mass media of foreign States, Uzbekistan was compelled to decline to renew the accreditation of the Tashkent bureau of the Uzbek service of Radio Liberty and to terminate the accreditation of a number of its correspondents before the expiry date.

The broadcaster BBC opened its office in Tashkent more than 10 years ago. For all these years the Uzbek authorities have been furnishing it with every possible assistance in its work without ever once indulging in harassment or intimidation of BBC journalists.

On 25 October 2005 the BBC put out a press release on its decision to close 10 offices in Eastern European countries, Kazakhstan and Thailand as a cost-cutting measure.

On the following day, 26 October 2005, there appeared another press release announcing the BBC's decision to suspend the operations of (but in fact to close) its Tashkent office.

It is quite evident that a whole series of decisions in 2005, including the decision on the Tashkent office, were taken by the BBC on purely cost-saving grounds and not out of safety concerns as the report asserts.

It is also clear that the BBC management used the safety-concerns reason for closing its Tashkent office in order to protect itself against possible criticism from certain sections of public opinion in Great Britain which do not agree with the office's closure.

The radio network Deutsche Welle, although having a number of accredited correspondents in Uzbekistan in recent years, broadcast and published on its website news and comment referring to non-existent sources or produced by unknown persons.

Accordingly, the Ministry of Foreign Affairs had to inform the management of Deutsche Welle officially of the inadmissibility of its violation of the generally accepted rules of international law on the acquisition and use of information and of its dissemination of unreliable reports on events in Uzbekistan.

Over the past two years Deutsche Welle correspondents have been warned repeatedly about their violations of the regulations governing the professional activities in Uzbekistan of correspondents of the mass media of foreign countries.

Particular attention must be drawn to the fact that the offices of foreign news agencies have on no occasion provided the Uzbek authorities with any concrete instances of harassment or intimidation of their correspondents.

Active protection of human rights defenders

65. The assertion in the report that the situation of human rights defenders in Uzbekistan has worsened following the Andijan events does not reflect the truth of the matter. The report does not cite any concrete facts or analyse the development of the post-Andijan internal political situation, about which a number of specific points may be made.

Uzbekistan recalls once again that the Andijan events constituted a terrorist act having no connection to the State's human rights policy. Accordingly, the assertion that after the May events the human rights situation in Uzbekistan deteriorated even further is politically motivated.

Furthermore, the authorities have no desire to exercise financial control of the funds or the humanitarian assistance furnished by foreign non-governmental organizations but argue that proper accounts must be kept of incoming grants, humanitarian assistance and technical cooperation.

Non-governmental organizations promoting the defence of human rights are developing vigorously. Uzbekistan has working in this area such non-governmental organizations as the Uzbek Committee for the Protection of the Rights of

Individuals, the Uzbek branch of the international organization Human Rights Watch, the Centre for the Study of Human Rights and Humanitarian Law, the Independent Human Rights Organization of Uzbekistan, the Ezgulik Human Rights Association of Uzbekistan, the Democracy and Human Rights Institute, the Bar Association, the Association of Judges, the Public Opinion Study Centre of Uzbekistan, the Centre for Support of Independent Candidates, etc.

66. On 6 March 2006 Ms. Mukhtabar Tajibaeva was sentenced by the Tashkent regional criminal court to eight years' deprivation of liberty with suspension for three years of the right to hold managerial posts or other positions of responsibility or to engage in business activities.

Ms. Tajibaeva had extorted large amounts of money, used threats and coercion to secure the transfer to herself of ownership of other people's property, evaded the payment of taxes and other dues, falsified documents, etc.

Ms. Tajibaeva's physical and moral integrity are protected by the State.

67. S. Zainabitdinov was sentenced by the Tashkent City Court on 5 January 2005 to seven years' imprisonment for defamation in aggravated circumstances, infringement of the constitutional order in the Republic of Uzbekistan, preparing and distributing materials containing a threat to public security and social order, and involvement in an extremist religious organization.

S. Zainabitdinov's activities sowed panic among the population, contributed to the establishment of a negative attitude vis-à-vis the authorities and the constitutional order in Uzbekistan, and were confirmed by an analysis of collected audiomaterials and legal, psychological, philosophical and religious studies.

From the moment of his arrest, S. Zainabitdinov made no complaint regarding the conditions under which he was held in remand and made no statements to the investigative and judicial organs to the effect that any unlawful methods had been used against him.

Criminal proceedings against I. Zainabitdinov were taken up by the Andijan Regional Criminal Court on 28 August 2006.

I. Zainabitdinov was charged by the preliminary investigation body with manufacturing forged bank notes and official documents, using computer technology, and selling them through an organized group.

On 25 May 2006 the preliminary investigation body placed a restraining order on I. Zainabitdinov which took the form of his being remanded in custody. The criminal case is currently under consideration.

68. Judicial consideration of the cases relating to M. Tajibaeva and S. Zainabitdinov and the investigation of the case of I. Zainabitdinov are being conducted in accordance with national legislation and international norms.

F. Other developments relating to the implementation of General Assembly resolution 60/174

Travel restrictions

69. In response to the application by OHCHR to visit Uzbekistan in order to establish the facts and circumstances of the Andijan events of May 2005, the Government of Uzbekistan has expressed its readiness to cooperate with the Office of the High Commissioner on the basis of the principles of objectivity and respect for national law, and has communicated the fact that it has no objections to its representatives observing the judicial proceedings in respect of the participants in the Andijan events, but without access being granted to the locations where they are being held in custody, to the materials of the investigation and to procedural actions, as to grant such access would be contrary to the national legislation of the Republic of Uzbekistan.

In Uzbekistan, there are no restrictions of any kind regarding visits to the country by representatives of the United Nations, the Organization for Security and Cooperation in Europe (OSCE) and other international bodies.

In the period from 16 December 2005 to 1 June 2006, more than 700 diplomats and officials from various international organizations visited Uzbekistan:

- 280 from the United Nations;
- 147 from the World Bank;
- 80 from the United Nations Office on Drugs and Crime;
- 83 from UNICEF;
- 65 from UNESCO;
- 20 from OSCE;
- 34 from the United Nations Population Fund, etc.

III. Conclusions and recommendations

70. The decrees of the President of the Republic of Uzbekistan transferring to courts the right to issue sanctions for arrest, of 8 August 2005, and abolishing the death penalty in the Republic of Uzbekistan, of 1 August 2005, are confirmation of the further liberalization of the judicial and legal system and bear witness to the fact that Uzbekistan is in strict observance of international standards in the protection of human rights.

The Government is fully aware that abolishing the death penalty will entail a sustained public information exercise, enhancing people's understanding of the need for further liberalization of criminal punishment. This exercise will have considerable financial and organizational implications.

Since the adoption of the decree abolishing the death penalty in Uzbekistan, based on generally recognized principles and rules of international law and provisions of the Constitution of the Republic of Uzbekistan affirming and

strengthening the right to life, not a single sentence has been carried out against a person who has been condemned to death.

71. The Government of Uzbekistan cooperates fully with the United Nations treaty bodies and submits in good time its periodic reports on fulfilment of the obligations undertaken by the country, including the observations and recommendations of the treaty bodies, and also information on the consideration of individual complaints by the Human Rights Committee.

72. It is clear from the content of the report that its compilers had no objective facts concerning the real situation of human rights in Uzbekistan, or were unwilling to make use of them, in spite of the repeated submission by the Uzbek side of detailed official information on all issues raised in the report. Uzbekistan does not accept most of the assertions made in the report and calls for the repudiation of attempts to discredit the lofty ideals of the United Nations by resorting to political machinations, double standards and a selective approach.

73. The Republic of Uzbekistan, as an independent sovereign State possessing all necessary means for conducting a full-scale investigation into the circumstances of the tragic Andijan events of May 2005, has every right to decide on its own authority to investigate cases touching on national security and falling exclusively within its own jurisdiction.

74. The Government of Uzbekistan is taking all measures to protect and safeguard the rights of all Uzbek citizens, as well as journalists, human rights defenders and other representatives of civil society. The right of every citizen of Uzbekistan to freedom and personal safety is guaranteed by national legislation.

75. The rights of returnees are fully observed in accordance with the norms of the national legislation of the Republic of Uzbekistan, and also of fundamental international human rights documents, including the Universal Declaration of Human Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which Uzbekistan is a party.

76. The recommendations of the report from the OSCE/ODIHR trial monitoring in Uzbekistan — September/October 2005, published in April 2006, regarding the public trial held in Tashkent of 15 of the most active participants in the Andijan events can be judged to be both groundless and rather biased, behind which lies the rejection on the part of certain political forces of Uzbekistan's fully justified and logical treatment of all manifestations of terrorism and attacks on the existing constitutional order and territorial integrity of a sovereign State.

77. As for the granting of access, the Uzbek authorities are providing the special procedures of the Human Rights Council of the United Nations (the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the independence of judges and lawyers, the Special Representative of the Secretary-General on human rights defenders, the Special Rapporteur on freedom of religion or belief, and others), with exhaustive information on the situation of human rights in Uzbekistan and on certain individual citizens. The Government of Uzbekistan is using all available resources to combat manifestations of torture and fully implements the Plan of Action for the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

78. Uzbekistan expresses its readiness to cooperate with the Office of the High Commissioner for Human Rights in the spirit of General Assembly resolution 48/141, which emphasizes the need to respect the sovereignty, territorial integrity and domestic jurisdiction of sovereign States.

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Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives

Letter dated 10 November 2006 from the Permanent Representative of Uzbekistan to the United Nations addressed to the Secretary-General

I have the honour to forward the comments of the Republic of Uzbekistan on the content of draft resolution A/C.3/61/L.39 on the situation of human rights in Uzbekistan, which was sponsored in the Third Committee by the United States delegation (see annex).

I would appreciate it if you could circulate the present letter and its annex as a document of the sixty-first session of the General Assembly under agenda item 67 (c).

(*Signed*) Alisher **Vohidov**
Permanent Representative of the Republic of Uzbekistan

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Annex to the letter dated 10 November 2006 from the Permanent Representative of Uzbekistan to the United Nations addressed to the Secretary-General

[Original: Russian]

Comments by Uzbekistan on the content of the draft resolution on the situation of human rights in Uzbekistan, contained in document A/C.3/61/L.39*

Paragraph 2 (a)

During the events in Andijan, Uzbekistan underwent attacks by terrorists during which several groups of gunmen, numbering more than 100, mounted an assault on a military unit and a police checkpoint, capturing 334 firearms, freeing more than 500 prisoners from the city jail and issuing weapons to them, then attacking the local government building and other official facilities, taking 70 government officials, law-enforcement officers and civilians hostage and organizing attempts to seize power by armed force in Andijan province and to destabilize the situation in Uzbekistan.

The findings of the investigation, which was carried out in full compliance with the requirements of Uzbek law and international rules, showed that the terrorist acts in Andijan had been meticulously planned and orchestrated by destructive forces outside the country, with a view to overthrowing the constitutional order in Uzbekistan. These events led to the death of 187 individuals, of whom 60 were civilians, 11 military servicemen and 20 law-enforcement officers. In all, 287 individuals were wounded, 91 of them civilians, 49 law-enforcement officers and 59 military servicemen.

In all, during the investigation, 11,916 witnesses, victims and civilian plaintiffs were questioned, 3,664 confrontations of witnesses and suspects were organized, 2,827 inspections of the scene of events and the material evidence were conducted and recorded on film and in photographs, 326 statement verifications were carried out at the scene of events and 3,217 forensic studies of various kinds were ordered and conducted, in the following specialized areas: medicine (584), ballistics (589), criminology (363), biology (667), chemistry (224), commodity science (162), religion (64) and other fields (564). A total of 9,486 separate pieces of material and written evidence were discovered and seized and more than 4,500 decisions handed down on the conduct of a range of investigative actions pursuant to the Code of Criminal Procedure. The materials relating to the investigation into the Andijan events fill 2,823 volumes.

Any country in the world, subjected to attacks of this sort, accompanied by the seizure of local government buildings and the taking of hostages, who were first tortured then savagely beaten, would have the right to take appropriate response measures. Uzbekistan took the decisions which it had to take. Furthermore, it is now clear that Uzbekistan succeeded in nipping in the bud a campaign of aggression by

* Headings in the present report correspond to the subparagraphs of the draft resolution contained in A/C.3/61/L.39.

terrorists who had their sights set not just on the Ferghana valley, but on the whole of Central Asia.

The appropriate government bodies in Uzbekistan prepared a report setting out the findings of the investigation into the terrorist acts in Andijan and this report was sent in mid-August 2006 to the foreign ministries of Finland (current President of the European Union), Germany (next President of the European Union) and Belgium (current holder of the Organization for Security and Cooperation in Europe (OSCE) chairmanship). The Uzbek authorities stand ready to provide any other information relevant to the report.

The reaction of most Western countries to these events was based on sensational reports by the media, which totally exaggerated the extent of the Government's use of force. Almost no mention was made of the fact that the aggressors were armed, killed innocent people, took hostages, set fire to the main theatre in Andijan, burnt private cars and attacked government buildings or that the organizers had clearly planned the events as a military operation. The events that took place in Andijan were directed by armed criminals. The terrorist organizers dispersed armed fighters among the crowd — a tactic employed by several notorious terrorist organizations.

The Government took every possible step to avoid civilian casualties in its actions to neutralize the terrorists. Government representatives conducted lengthy negotiations with the terrorists and the Government even agreed to release six extremists from detention, in response to a demand from the terrorists. The terrorists kept putting forward more and more demands, however, causing the negotiations to stall. At this point the government forces started to surround the local government building which had been seized by the terrorists. When they realized that their situation was hopeless, the terrorists decided to abandon the building, shooting indiscriminately and using civilians as human shields.

Paragraph 2 (b)

The allegation that local non-governmental organization representatives were detained to prevent them observing the trials of Andijan suspects is unfounded.

The trial of the 15 most active participants in the Andijan events was observed by more than 100 representatives of foreign and local media, diplomatic missions and international organizations, including the United Nations, the OSCE Office for Democratic Institutions and Human Rights (ODIHR), the Office of the United Nations High Commissioner for Refugees (UNHCR), the Shanghai Cooperation Organization and such international human rights bodies as Human Rights Watch and the American Association of Jurists and others. No restrictions were placed by the judicial authorities on observations of the trials. Local non-governmental organizations, including the Independent Human Rights Association and others, also observed the trial.

Some trials of participants in the terrorist acts were closed to the public by order of the court and pursuant to article 19 of the Uzbek Code of Criminal Procedure, which provides for measures to ensure the safety of victims, witnesses and other persons involved in the proceedings. This provision is entirely consistent with international standards.

Paragraph 2 (c)

Since the early days of independence, Uzbekistan has attached great importance to the formation of civil society, of which non-governmental organizations are a vital component.

In Uzbekistan, non-governmental organization activity is supported and guaranteed by the State. A sound legal basis for their activities has been established. More than 10 laws have been adopted in Uzbekistan on the various organizational and legal forms of non-governmental organizations, including the Voluntary Associations Act, the Civil Code, the Non-Governmental Non-Profit Organizations Act and others.

The Uzbek Constitution enshrines the guarantees extended by the State to non-governmental organizations, which act as a unique bridge between the State and society.

Currently there are over 5,000 non-governmental organizations, including international non-governmental organizations, operating in Uzbekistan. Among these are the Uzbek Committee for the Protection of the Rights of Individuals, the Uzbek branch of the international organization Human Rights Watch, the Centre for the Study of Human Rights and Humanitarian Law, the Independent Human Rights Organization of Uzbekistan, the Ezgulik Human Rights Association of Uzbekistan, the Democracy and Human Rights Institute, and others.

Uzbekistan considers that civil-society institutions should serve to reinforce the ideas that have historically been characteristic of the Uzbek people, such as tolerance and harmony among peoples, religions and cultures.

In Uzbekistan, however, as in most countries, the rule of law is paramount. This applies also to non-governmental organizations, if they commit egregious or deliberate breaches of their own statutes and the rules governing their activities in the territory of the Republic of Uzbekistan.

When the constituent and other documents of a non-governmental organization run counter to the requirements of Uzbek law, in particular the Non-Governmental Non-Profit Organizations Act, the Voluntary Associations Act, the Political Parties Act, the Public Foundations Act and the regulations governing applications for registration of the statutes of voluntary associations operating in the territory of the Republic of Uzbekistan, that organization may be refused registration. An appeal against such a decision may be duly lodged before any of a number of courts.

As for the allegation that a number of non-governmental organizations were shut down after the Andijan events, the closure of these organizations had nothing to do with the Andijan events. A number of non-governmental organizations were closed on the decision of their founders (and not the registration authorities or the courts), prompted by the lack of funds for their continued operation. Some non-governmental organizations were closed by decision of the court for failure to keep to their statutory purposes and tasks and for breaching the current law of Uzbekistan. The closure of these non-governmental organizations only took place after repeated warnings by the registration authorities regarding the need for them to comply with the law and their own statutes.

The principal tasks facing UNHCR in Uzbekistan, whose office in the country opened in 1993, included organizing the repatriation of Tajik refugees from

Afghanistan and Turkmenistan to their home country and rendering humanitarian assistance to refugees in Afghanistan. In the performance of these tasks, and also to ensure that the UNHCR office was able to operate fully and efficiently, the Uzbek Government, acting in the spirit of friendly cooperation, gave the UNHCR office in Tashkent every assistance.

Thanks to the end of the civil war and the stabilization of the situation in Tajikistan, together with the end of military hostilities in Afghanistan, the Tajik refugees were able to return to their country with assistance from UNHCR and the Uzbek Government.

In 2004, with support from the Uzbek Government, the UNHCR office in Tashkent was able to complete its programme of delivering humanitarian assistance to Afghanistan through the territory of Uzbekistan.

Given the measures described above, by working in cooperation and harmony with the people and Government of Uzbekistan, the UNHCR office in Tashkent was able to complete all the tasks assigned to it and UNHCR was duly apprised of this.

Paragraph 2 (d)

Allegations that eyewitnesses of the Andijan events in May 2005, as well as journalists, media officers and human rights defenders, were harassed and detained are unfounded.

Following the tragic events in Andijan, detective work was carried out to identify the culprits involved in the commission of criminal offences and to elucidate all the circumstances surrounding the events.

All these actions were conducted in accordance with the law and in the interests of national security, in a manner comparable, for example, to the measures conducted by the United States authorities after the events of 11 September 2001 or by the British authorities after the explosions in London in July 2005.

Uzbek law guarantees the right of every citizen to freedom and personal safety. In this context, we also point out that no complaints of arbitrary arrest and detention were filed with the judicial authorities of Uzbekistan.

Paragraph 2 (e)

Allegations that independent media were prevented from functioning and that any form of dissent expressed by them was met with intolerance and increased restrictions on freedom of expression, and with harassment, beatings, arrests and threats against journalists, human rights defenders and civil-society activists were found not to be substantiated. Over the entire period that has elapsed, no complaints of this kind have been filed with the judicial authorities.

Uzbekistan's information policy is designed to ensure proper and full adherence to the principles of freedom of speech and the right of all citizens to information, as enshrined in the Uzbek Constitution.

Under article 67 of the Constitution, the mass media are free and shall operate in accordance with the law.

Under article 29 of the Constitution, every citizen has the right to seek, receive and disseminate any information, provided that such information is not directed against the constitutional order.

The Professional Activities of Journalists (Protection) Act stipulates that, in the exercise of their professional duties, journalists' individual safety shall be guaranteed. As part of its development and extension of the reform process in Uzbekistan, the Government plans to continue liberalizing the activities of the press, television and radio.

Paragraph 2 (f)

There are no artificial barriers to the registration of political parties in Uzbekistan.

In Uzbekistan, political parties operate in accordance with the Constitution, the Political Parties Act of 26 December 1996 (as amended and supplemented) and other legislative acts, and also on the basis of their own statutes.

Political parties acquire the status of legal entities and are able to start operating from the moment of registration. Registration depends on those responsible for founding the party and on the extent to which the constituent documents have been properly completed and the requirements of law fulfilled.

The registration of political parties is carried out by the Ministry of Justice, in accordance with the Political Parties Act, within one month of receipt of an application. Under article 5 of the Act, the State guarantees the protection of the rights and lawful interests of political parties and provides them with equal legal opportunities for them to pursue their statutory aims and objectives.

Under article 8 of the Political Parties Act, for the establishment of a political party, 20,000 signatures of Uzbek citizens must be obtained. This provision was adopted on the basis of international practice in the establishment and registration of parties.

Article 9 of the Act provides an exhaustive list of the grounds on which a political party may be refused registration. In the event of such a refusal, the Ministry of Justice informs an accredited member of the party's governing body accordingly, drawing attention to the legal provisions with which the documents that have been submitted are not in conformity. An appeal against a refusal to register a political party may be lodged with the Supreme Court of the Republic of Uzbekistan.

Currently the following parties are actively involved in the political life of Uzbekistan: the People's Democratic Party of Uzbekistan, the Fidokorlar National Democratic Party, the Milliy Tiklanish Democratic Party of Uzbekistan, the Adolat Social-Democratic Party and the Liberal Democratic Party of Uzbekistan, a movement of entrepreneurs and businesspeople.

Paragraph 2 (g)

The assertion that there is a continuing pattern of discrimination, harassment and prosecution with regard to the exercise of freedom of thought and religion, including through the refusal to register certain religious communities and police

raids against and deportations of members of registered and unregistered religious communities, is unfounded and not consistent with the facts.

Under Uzbek law, every citizen of the country has the right to profess any religion or none.

In Uzbekistan, the persecution of believers simply for their adherence to a particular faith is prohibited. The Freedom of Conscience and Religion Act prohibits all forms of religious or other fanaticism or extremism, or activities aimed at arousing opposition or exacerbating relations or fomenting hatred between various religions and sects. The imposition of religious views by force is also not allowed.

In Uzbekistan, which is home to members of 15 religious faiths, State policy on the encouragement of religious rights and freedoms provides broad opportunities for religious organizations to carry on their activities. Article 18 of the Constitution of Uzbekistan guarantees equal rights for all citizens, without regard to sex, race, nationality, language, religion, belief, social origin or status.

The Freedom of Conscience and Religion Act clearly defines the role and status of religious organizations and their interaction with government authorities and also fully guarantees the right of citizens to profess their religion, perform rites and ceremonies and make pilgrimages to holy places, both individually and in groups.

Every year, believers make pilgrimages to holy sites with the extensive support of the Government. Over the years since Uzbekistan's independence, more than 50,000 citizens have made pilgrimages to holy places.

Believers have the right freely to observe all religious holidays.

The State works to promote mutual tolerance and respect among its citizens who are members of different religious denominations. Every citizen has the right to profess any religion or to profess none.

State policy affords extensive opportunities for religious organizations to flourish in Uzbekistan. While in 1990, there were only 211 religious organizations in Uzbekistan, currently as many as 2,202 are registered in the country.

To ensure close interaction with religious organizations in Uzbekistan, a Committee for Religious Affairs has been set up, under which there is a Council on Faith Matters.

The country's religious education system incorporates the Tashkent Islamic Institute, ten madrasas, an Orthodox seminary and a Protestant seminary. The Tashkent Islamic University has been in operation since September 1999.

If the constituent and other instruments of religious organizations are inconsistent with the requirements of Uzbekistan law, in particular, the Freedom of Conscience and Religion Act, or with other rules and regulations covering aspects of registration, registration is refused. Appeals may be lodged with the courts against rejections of applications for registration.

Over the 2005-2006 period, registration was granted to more than 40 religious organizations.

Paragraph 2 (h)

The question of access by monitors to places of detention is governed by the rules of Uzbek law.

A number of non-governmental organizations are in operation in Uzbekistan which, by arrangement with the Central Corrections Office and the administration of the correctional colonies, have access to detainees, render them legal assistance and carry out their programmes. No observations have been submitted by the representatives of non-governmental and other organizations arising from the findings of visits to correctional facilities administered by the Central Corrections Office of the Ministry of Internal Affairs of the Republic of Uzbekistan.

Paragraph 2 (i)

The physical and moral integrity of all citizens of the Republic of Uzbekistan and all their rights and freedoms are fully protected by the State.

In accordance with Uzbek law, persons suspected or accused of the commission of offences undergo a judicial psychiatric appraisal to determine their mental state and whether or not they were of sound mind at the time of commission of the offence.

Individuals deemed not to have been of sound mind or suffering from mental illnesses may not be subject to criminal prosecution.

The court may, however, order the application to such persons of coercive measures of a medical nature.

Paragraph 2 (j)

The allegation regarding forced labour, in particular, of children, is unfounded.

The law of the Republic of Uzbekistan prohibits the use of forced labour, namely, coercing persons to perform work under the threat of a punishment, including the use of such threats as a means of maintaining discipline at work (article 51 of the Code of Administrative Liability, article 7 of the Labour Code and article 2 of the Employment Act).

We would note that that the definition of forced labour does not extend to work whose performance is required in the following circumstances:

- On the basis of legislative acts on military or alternative service;
- In a state of emergency;
- Pursuant to a court verdict which has become enforceable;
- In other circumstances provided for by law.

At the same time, penalties are stipulated by law for administrative coercion, whereby people are forced to perform work of any nature.

Pursuant to the Labour Code (article 77), the legal age of employment is 16. Persons aged 15 may be employed with the written consent of one of their parents or a person acting in their stead. This rule is fully consistent with the provisions of International Labour Organization (ILO) Convention No. 182.

In order to prepare young people for employment, it is permitted to offer jobs to pupils at general-education schools, vocational and technical colleges and other secondary educational establishments involving the performance of light work which causes no harm to their health or development and does not disrupt their education, during after school hours, upon their attaining the age of 14 and with the written consent of one of their parents or a person acting in their stead.

In after-school hours young people whose parents are farmers may assist them in their work, working in family teams.

There are two commissions on youth affairs in Uzbekistan: one headed by the deputy Prime Minister, the other by the Procurator-General. The use of child labour is monitored by officials of the State Labour Inspectorate, and also by trade union confederations at national, sectoral and local levels.

In addition, the Human Rights Commissioner of the Oliy Majlis (Parliament) of the Republic of Uzbekistan (the Ombudsman) and a number of non-governmental organizations, such as Sog'lom Avlod Uchun ("For a Healthy Generation"), Sen Yolg'iz Emassan ("You are not alone"), Sabr ("Patience") and others, are concerned with protecting the rights of children and young people.

Paragraph 3 (a)

As an independent and sovereign State which has at its disposal all the necessary resources to conduct a full-scale investigation into the circumstances surrounding the tragic events in Andijan, the Republic of Uzbekistan is fully entitled, on its own authority, to take a decision on the investigation of matters pertaining to its national security and lying exclusively within its own jurisdiction.

Armed attack, premeditated murder and the taking of hostages are considered the gravest criminal offences in every country in the world and incur severe penalties under law. The prosecution of such offences is effected in the framework of the country's criminal law, by the competent domestic authorities.

In accordance with the rules of international law, international inquiries are only held when the State itself submits a request for the conduct of such inquiries, on the grounds that its own authorities lack the competence to conduct them, or in the event of the collapse of the State, or also if the situation which has arisen poses a direct threat to the maintenance of international peace and security.

The Uzbek law-enforcement authorities conducted a full-scale inquiry which was carefully overseen by the independent parliamentary commission and by the international task force comprising members of the foreign diplomatic missions accredited to Uzbekistan.

The European Union countries and the United States of America rejected the invitation by the Uzbek authorities and refused to join the international monitoring group, thereby manifesting their unwillingness to engage in cooperation and dialogue.

Their insistence on the conduct of an international inquiry is politically motivated and a gross violation of international rules, which call for respect for national sovereignty, territorial integrity, the maintenance of the stability of States and non-interference in their domestic affairs.

Paragraph 3 (b)

Uzbekistan remains convinced that the consideration of the human rights situation in the country at the sixtieth session of the United Nations General Assembly was undertaken without any real justification and that it had nothing to do with the actual state of affairs in Uzbekistan but pursued other goals altogether.

From the very first days of Uzbekistan's independence, priority has been accorded to upholding and protecting human rights. The Uzbek Government abides by the principle of the supremacy of human interests and does all in its power to uphold the universally accepted rights and freedoms of its citizens.

Sovereign States should endeavour to improve their democratic institutions on the basis of their own history, culture and traditions. Accordingly, in joining the generally held view that the United Nations needs to be reformed to bring it more closely into line with modern realities, Uzbekistan is convinced that international organizations should set as their priority the promotion of development, including that of democratic institutions, while respecting the domestic choices and particular traditions of the plenipotentiary members of the United Nations.

In that connection, the Uzbek authorities set out their position on the substance of the issues raised in resolution 60/174 and disseminated the corresponding aide memoire as an official document of the General Assembly under symbol A/60/914 of 30 June 2006.

Paragraph 3 (c)

The Uzbek Government did not apply any pressure on other States to prevent its citizens with so-called "UNHCR mandated refugee status" from travelling to third countries.

Uzbekistan only called for the return of those persons who had broken out of prison or had perpetrated criminal acts (such as premeditated murder, terrorism, unlawful possession of firearms and weapons, attacking the constitutional order and hostage-taking), which are punishable criminal offences in every country.

The Uzbek authorities raised no objection to the departure to third countries of Uzbek citizens who had no association with criminal offences committed on the territory of Uzbekistan.

In this context we would like to point out that every country is entitled to prosecute individuals associated with the perpetration of particularly serious offences in their territory and evading justice in third countries. This procedure, which is widely followed throughout the world, was applied in full conformity with universally accepted rules and current bilateral arrangements.

In July and August 2006, 53 Uzbek citizens, many of whom had been forced by terrorists to cross over into Kyrgyzstan under threats of reprisals, returned voluntarily from the United States of America. These persons were granted the "artificial" status of refugees and were promptly flown by UNHCR from Kyrgyzstan to Romania in 2005.

Paragraph 4 (a)

First, the report of the mission by the Office of the United Nations High Commissioner for Human Rights (OHCHR), which was prepared in haste and then disseminated, distorts the real situation, since it is based on the allegations of individuals who took part in the terrorist actions and then escaped from prison.

It is surprising that, on the one hand, OHCHR acknowledges the lack of information on the criminal and terrorist acts committed in Andijan on 13 May and, on the other, affirms the objectivity of its statements and recommendations.

Second, the assessment reached by the OCHCR mission, whose very legitimacy is in doubt, flagrantly violates the sovereignty of Uzbekistan.

Third, the statement by OHCHR on behalf of the treaty bodies and special procedures mandate holders is a violation of the fundamental principles underlying the High Commissioner's mandate, as defined by General Assembly resolution 48/141. The interpretation provided in the present instance by OHCHR of the rules and mechanisms of international law is quite arbitrary and its call for the imposition on Uzbekistan of a so-called public mechanism of the United Nations comes across as a provocation.

Fourth, in its actions OHCHR ignored Security Council resolutions 1269 (1999) of 19 October 1999 and 1373 (2001) of 28 September 2001, which state that refugee status must not be granted to terrorists.

The findings of the investigation, which was carried out in full compliance with the requirements of Uzbek law and international rules, showed that the terrorist acts in Andijan had been meticulously planned and orchestrated by destructive forces outside the country, with a view to overthrowing the constitutional order in Uzbekistan. These actions led to the death of 187 individuals, 60 of whom were civilians, 11 military servicemen and 20 law-enforcement officers. In all, 287 individuals were wounded, 91 of them civilians, 49 law-enforcement officers and 59 military servicemen.

In all, during the investigation, 11,916 witnesses, victims and civilian plaintiffs were questioned, 3,664 confrontations of witnesses and suspects were organized, 2,827 inspections of the scene of events and the material evidence were conducted and recorded on film and in photographs, 326 statement verifications were carried out at the scene of events, 3,217 forensic studies of various kinds were ordered and conducted, in the following specialized areas: medicine (584), ballistics (589), criminology (363), biology (667), chemistry (224), commodity science (162), religion (64) and other fields (564). A total of 9,486 separate pieces of material and written evidence were discovered and seized and more than 4,500 decisions handed down on the conduct of a range of investigative actions pursuant to the Code of Criminal Procedure. The materials relating to the investigation into the Andijan events fill 2,823 volumes.

Paragraph 4 (b)

It is legally improper and altogether inappropriate to direct a sovereign State to accede to any international agreement. It is the sovereign right of every country to determine to which agreement it should accede and when.

At the same time, the Uzbek authorities would like to point out that Uzbekistan is developing domestic legislation on migration, which will be entirely consistent with international rules and standards.

Consideration of the issue of Uzbekistan's accession to the 1951 Convention relating to the Status of Refugees and to its protocol will be possible once its domestic legislation on migration has been prepared. This approach is fully consonant with international practice.

As for cooperation with UNHCR, the Uzbek delegation attended the fifty-sixth and fifty-seventh sessions of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees in Geneva and delivered its report, manifest evidence of the country's cooperation with the Office.

Paragraph 4 (c)

In Uzbekistan, as in other countries of the world, all citizens are equal before the law, regardless of their professional or social activity.

In addition, under Uzbek law, in particular, the Citizens' Appeals Act, every citizen is entitled to lodge an appeal before the courts for the restoration of rights which have been violated and for the prosecution of those responsible for such violations.

In this connection, the assertion that journalists and members of civil society, including human rights defenders, have allegedly been harassed and detained is unfounded.

The information policy conducted by the Government is designed to ensure that the principles of the freedom of speech and citizens' right to information, as enshrined in the Uzbek Constitution, are fully and consistently upheld.

As stated in article 29 of the Constitution, every citizen has the right to seek, receive and disseminate any information, provided it is not directed against the country's constitutional order.

The Professional Activities of Journalists (Protection) Act of Uzbekistan stipulates that, in the performance of their professional duties, the safety of journalists shall be guaranteed.

The development of civil-society institutions, including human rights organizations, whose emergence is directly related to the growing political dynamism of the Uzbek people, forms an integral part of the country's system for the protection of human rights.

A number of laws have been adopted which provide a sound legal basis for work of voluntary associations, including those involved in human rights activities. These include the Voluntary Associations Act, the Non-Governmental Non-Profit Organizations Act, the Public Foundations Act and others.

The facts adduced above clearly demonstrate Uzbekistan's commitment to ensuring the free operation of journalists and civil-society representatives in accordance with the rules of Uzbek law, which is entirely consistent with international standards.

Paragraph 4 (d)

A public trial was held from 20 September to 14 November 2005 of 15 persons who had been most active in organizing and conducting the terrorist events in Andijan.

All stages of the legal proceedings were conducted with the participation not only of numerous victims, civil plaintiffs and witnesses, but also of more than 100 representatives of foreign and Uzbek media bodies, diplomatic missions and international organizations, including the United Nations, UNHCR, OSCE-ODIHR and the Shanghai Cooperation Organization and such human rights organizations as Human Rights Watch and the American Association of Jurists.

During the trial, international observers had the opportunity to familiarize themselves with all the investigation materials, statements by witnesses, victims and civil claimants and the entire body of evidence (audio and video materials, findings of numerous forensic studies, incident scene reports, confiscated weapons, some seized during raids on paramilitary facilities and others brought from abroad by terrorists, etc.). In essence, they were able to follow the entire process of investigation by the court of the body of evidence described above.

Some of the trials of participants in the terrorist acts were held in camera, by order of the court and in accordance with article 19 of the Uzbek Code of Criminal Procedure, stipulating measures to ensure the safety of victims, witnesses and other persons involved in the case.

All these judicial proceedings were held in conformity with the procedural rules and in strict compliance with international standards and with the rules of Uzbek law. During the trials the adversarial principle was upheld, with the participation of lawyers, and the defence and the prosecution were accorded identical conditions and opportunities to ensure the impartial conduct of the proceedings.

Paragraph 4 (e)

The human rights situation in Uzbekistan has always been in keeping with universally recognized rules and standards.

The executive and legislative branches of the country's Government are taking the necessary steps to ensure respect for all human rights and fundamental freedoms. The following arrangements have been made to ensure effective protection of human rights:

- More than 300 laws governing human rights and fundamental freedoms have been passed;
- National human rights institutions have been established;
- A system of continuous human rights education is in operation.

Our country took issue with the way that the human rights situation in Uzbekistan was considered at both the sixtieth and sixty-first sessions of the United Nations Commission on Human Rights under the confidential 1503 procedure. The fact that the issue was raised had nothing to do with human rights in Uzbekistan and was specious. Such actions only engender confrontation and further politicize the human rights agenda.

The Uzbek authorities, which have been cooperating fully with the independent expert appointed by the Commission on Human Rights under the 1503 procedure in December 2005, have provided the expert with exhaustive responses and information on the implementation of the recommendations made by the previous expert.

Paragraph 4 (f)

The Government of Uzbekistan guarantees total freedom of religion and places no restrictions on religious organizations as to their size or places where they may operate. All religious organizations, from the largest (the Muslim Board of Uzbekistan and the diocese of Tashkent and Central Asia) to the smallest, have the same rights and obligations.

In its relations with religious organizations, the State adheres to the following principles:

- Respect for the religious feelings of believers;
- Acknowledgement of religious convictions as the private affair of citizens or of their organizations;
- Guarantee of equal rights and inadmissibility of persecuting citizens, both those who profess religious views and those who do not;
- Need to strive for dialogue with various religious organizations in order to make use of their capabilities to promote spiritual rebirth and the affirmation of universal human moral values;
- Acknowledgement of the inadmissibility of using religion for destructive purposes.

Paragraph 4 (g)

Uzbekistan has fully implemented the recommendations contained in the report of the Special Rapporteur on torture and provided the relevant information to the Commission on Human Rights on the implementation of the recommendations of the Special Rapporteur, which was issued as a United Nations document under the symbol CCPR/C/UZB/2004/2/Add.1, and also under the symbol A/59/675 (18 January 2005).

Uzbekistan was the first member of the Commonwealth of Independent States to have invited the Special Rapporteur to make a country visit. His visit and the subsequent adoption of a plan of action to implement the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, together with the recommendations of the Special Rapporteur, confirmed the firm political will of the Government of the Republic of Uzbekistan to prevent and eliminate the practice of torture. The plan of action has been implemented fully.

Compliance with the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is monitored by the Department for the Oversight of Investigations by the Office of the Procurator General of the Republic of Uzbekistan.

In accordance with the Convention, on 17 February 2005 the Procurator-General issued order No. 40 on the radical improvement of procuratorial oversight of respect for the rights and freedoms of citizens during criminal proceedings, which specifies that the protection of the rights and freedoms guaranteed under the Uzbek Constitution, procedural law and the principles of international law must be a priority for the procuratorial authorities. Procurators must strictly abide by the provisions of the Convention and all existing Uzbek legislation on that issue.

Responsibility for investigating complaints of use of torture within the internal affairs system, in accordance with working procedures, lies with the special domestic security divisions (or special staff inspectorates), which are directly answerable to the Minister of Internal Affairs.

The involvement of public figures, civil-society institutions and, in some cases, foreign experts is common practice in investigating claims of the use of torture.

There is an agreement between the Ministry of Internal Affairs and the Parliamentary Human Rights Commissioner (or Ombudsman) of the Republic of Uzbekistan on conducting joint efforts to ensure observance of human rights in the work of the internal affairs agencies.

Trials involving cases of torture and other unlawful activities by internal affairs officials are heard in public court proceedings. The court findings concerning these cases are discussed in all the country's local internal affairs agencies.

For the purpose of ensuring full and effective legal protection of the rights and freedoms of detainees and suspects, the Central Investigations Office of the Ministry of Internal Affairs and the Uzbek Bar Association have prepared and introduced a regulation on the procedure for securing the right to a lawyer for detainees, suspects and defendants at the initial inquiry and pre-trial investigation stages. As a result of introducing this regulation, the conduct and discipline of internal affairs officials is monitored in order to prevent unlawful actions on their part towards detainees, suspects and defendants.

The Special Rapporteur's recommendations on the issue of torture are reflected in the new version of the Parliamentary Human Rights Commissioner of the Republic of Uzbekistan (Ombudsman) Act.

An instruction has been drafted regulating the process for detaining suspects and providing for strict due process when they are being placed in the custody of law enforcement agencies. The instruction devotes particular attention to the issue of respect for human rights at this stage of criminal proceedings.

Paragraph 4 (h)

Uzbekistan is working closely with OHCHR. During their visits to Central Asia in 2002 and 2004, experts from the Office travelled to Uzbekistan, where they met representatives of various government institutions.

Uzbekistan is involved in the Office's regional project to provide technical assistance in the area of human rights for Central Asian countries, which was launched in 2004. In addition, Uzbekistan promptly responds to all communications or queries received from the Office concerning various human rights issues.

Uzbekistan is also cooperating with the special procedures and mechanisms of the Commission on Human Rights and punctually sends replies to its communications on various issues concerning Uzbek nationals and the human rights situation in the country.

As a party to the six major international human rights conventions, Uzbekistan is systematically cooperating with the monitoring bodies established under them (Human Rights Committee, Committee on Economic, Social and Cultural Rights, Committee against Torture, Committee on the Elimination of Racial Discrimination, Committee on the Elimination of Discrimination against Women and Committee on the Rights of the Child).

Over the past two years, Uzbekistan has submitted six periodic reports to the United Nations treaty bodies. Following the consideration of the periodic reports of Uzbekistan by the relevant treaty bodies, work has commenced in Tashkent, with the assistance of the United Nations Development Programme, on the elaboration of a national plan of action to implement their recommendations.

Paragraph 4 (i)

As a full member of OSCE, the Republic of Uzbekistan fulfils its obligations undertaken within the framework of the Organization and actively cooperates with its institutions.

Over the past two years, Uzbekistan has taken part in the majority of OSCE-sponsored events: the expert workshop on container security; the annual security review conference; the high level conference on combating trafficking in children; the expert workshop on cooperation in investigations of terrorist-related crimes; the supplementary human dimension meetings on election technologies and procedures; the expert workshop on suicide terrorism; the supplementary human dimension meeting on human rights and the fight against terrorism; the high-level consultations to discuss the final report and recommendations of the Panel of Eminent Persons on the reform of OSCE; the expert workshop on combating the use of the Internet for terrorist purposes; the OSCE Council of Ministers of Foreign Affairs; the OSCE Economic Forum, entitled "Transportation in the OSCE Area: Secure Transportation Networks and Transport Development to Enhance Regional Economic Cooperation and Stability"; and others.

Paragraph 4 (j)

Under article 34 of the Constitution, Uzbek citizens have the right to form political parties. No one may encroach on the rights, freedoms and dignity of persons constituting an opposition minority in political parties, voluntary associations and mass movements.

In accordance with article 20 of the Oliy Majlis of the Republic of Uzbekistan (Elections) Act, any political party has the right to put forward candidates for parliament on condition that it is registered with the Ministry of Justice of the Republic of Uzbekistan no later than six months prior to the date of the announcement of the start of the election campaign, and that it has collected no fewer than 50,000 voter signatures in support of its participation in the elections.

Political parties enjoying strong popular support and functioning as stable political institutions have no difficulty meeting the requirements under national law.

In Uzbekistan, the registration of any political party depends on the validity of the constituent instruments and compliance with national law, which is the same for all parties, including opposition parties.

Under article 9 of the Political Parties Act, a political party is refused registration if its members, purposes, objectives and methods of work run counter to the Constitution and other legislative acts of the Republic of Uzbekistan or if another political party or public movement has previously been registered with the same name.

In the event that a political party is denied registration, the Ministry of Justice of the Republic of Uzbekistan so informs a fully accredited member of the party's governing body in writing, citing the legal provisions with which the documents that have been submitted are not in conformity.

Accredited officials of the party's governing body have the right within one month of receipt of the denial of registration to apply again to the Ministry of Justice for registration of the party provided that the documents have been brought fully into line with the Constitution and the law of the Republic of Uzbekistan.

An appeal against refusal of registration of a political party may be lodged with the Supreme Court of the Republic of Uzbekistan in the prescribed manner.

Paragraph 4 (k)

The Government ensures compliance with the rights and legitimate interests of civil-society organizations, including non-governmental organizations, and provides them with equal legal opportunities for participation in public affairs. Interference by State bodies and officials in the activities of voluntary associations is prohibited.

Uzbekistan is pursing a policy of social partnership to promote the gradual development of civil-society institutions. As a result, non-governmental organizations are rapidly developing, participating in the decision-making process and playing an increasing role in the democratization of society.

Uzbekistan has adopted more than 10 pieces of legislation regulating the activities of voluntary associations, including the Civil Code, the Voluntary Associations Act, the Non Governmental Non-Profit Organizations Act, the Freedom of Conscience and Religion Act, the Public Foundations Act, the Homeowners' Associations Act, the Local Authorities Act and the Local Authorities Presiding Officers (Elections) Act. Amendments are being drafted to the Charitable Activities Act and the Voluntary Associations Act.

The Uzbek Association of Non-Governmental Non-Profit Organizations, which represents the interests of non-governmental organizations in relations with the State, has been operating since June 2005.

The Non-Governmental Non-Profit Organizations Support Fund was established in 2005 for the formation of independent, sustainable civic institutions enjoying broad popular support, the strengthening of their role in tackling social problems and the enhancement of the political, social and business activities of citizens.

The major objectives of the Fund are as follows:

- Raising the necessary material and financial resources, including grants from local, foreign and international organizations and financial institutions, designed to foster the development of civic institutions and, above all, independent non-governmental organizations enjoying popular support and independently tackling issues facing them with a view to satisfying and protecting the various interests of Uzbek citizens;

- Financing non-governmental organization projects and programmes to support social and political actions by citizens to resolve major humanitarian, economic and other social tasks and problems and to promote the development of civil-society institutions;

- Providing financial assistance to implement projects and programmes related to strengthening logistical support for non-governmental organizations, providing them with legal, advisory, organizational, technical and other assistance and conducting measures (conferences, workshops, training courses and others) on the development of the work of non-governmental organizations and civil-society institutions.

The work of non-governmental organizations and trade unions, national cultural centres, foundations and other civic organizations shows that the developing non-governmental organization structure in Uzbekistan reflects a balance of interests in society.

The gross and sometimes intentional violation by non-governmental organizations of their statutory purposes and the rules governing their activity in the territory of Uzbekistan, regardless of whether they are local or foreign, cannot be ignored by the authorities, however. The violation of domestic law by a number of non-governmental organizations incurs the penalties provided under the country's current laws.

Paragraph 4 (l)

Under article 67 of the Uzbek Constitution, the media are free and must act in accordance with the law; they are responsible for ensuring accuracy of information according to established procedures; and censorship is prohibited.

Article 29 of the Constitution and article 3 of the Media Act guarantee to every citizen freedom of speech and the right to publish or appear in the media and to express opinions and convictions openly. Everyone has the right to seek, receive and disseminate any kind of information.

The Professional Activities of Journalists (Protection) Act of Uzbekistan stipulates that, in the performance of their professional duties, the safety of journalists shall be guaranteed. The Act prohibits the prosecution of journalists for publishing critical material.

The Act also sets out safeguards for the professional activities of journalists: the State guarantees the freedom of journalists to receive and disseminate information and provides protection during the conduct of their professional activities; and the rights, honour and dignity of journalists are protected by law. It is forbidden to interfere in the professional activities of journalists and to require them to provide any information obtained in the course of their professional duties.

The information policy conducted by the Government is designed to ensure that the principles of the freedom of speech and citizens' right to information, as enshrined in the Uzbek Constitution, are fully and consistently upheld. Censorship is prohibited in the country; the activities of the media may be suspended only by a court of law; and the rules for media registration have been simplified.

There are some 500 independent media outlets in Uzbekistan at present. They include newspapers, magazines, radio and television stations, news agencies and electronic media on the Internet. In 2005, according to the Press and Information Agency, 307 newspapers, more than 100 magazines, 28 television studios, 12 radio stations and 36 cable television stations were operating successfully with independent status.

Periodicals published by various parties, voluntary associations, foundations, private and commercial enterprises, associations and religious groups also have wide circulation in the cities and regions of Uzbekistan. They all differ in focus and content and are tailored to the interests of members of different social strata.

The Professional Journalists Club was established in Tashkent in May 2006. The club's co-founders and main sponsors are the National Electronic Media Association and the Foundation for the Support and Development of Independent Printed Media and News Agencies of Uzbekistan. One of the objectives of this new association is to foster civic mindedness and independent thinking among journalists, which in turn will be conducive to the development of free and democratic media.

Paragraph 4 (m)

Uzbekistan has adopted legislative, administrative and other measures necessary for providing effective guarantees of the rights and freedoms of individuals, which are consistent with the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (United Nations Declaration on Human Rights Defenders).

As it attaches great importance to respect for the rights and fundamental freedoms of its citizens, Uzbekistan began to establish national human rights institutions in the mid-1990s.

Pursuant to the recommendations of the second World Conference on Human Rights, held in Vienna in 1993, a system of national human rights institutions has been established in the country, including the Constitutional Court, the Parliamentary Human Rights Commissioner (Ombudsman), the National Human Rights Centre, the Institute for Monitoring Current Legislation, the Centre for the Study of Public Opinion and others, all of which are doing productive work.

Special human rights divisions have been established within the law-enforcement agencies, including the Ministry of Justice, the Ministry of Internal Affairs and the Office of the Procurator-General.

The development of civic institutions is an integral part of the national human rights system, including human rights organizations, whose emergence is directly linked to the population's increased political activity.

Several laws have been adopted to strengthen and protect the activities of voluntary associations, including those engaged in human rights activities. They include the Voluntary Associations Act, the Non-Governmental Non-Profit Organizations Act, the Public Foundations Act, and others.

Since 1997 a special human rights course has been taught in all institutions of secondary and higher education in Uzbekistan. The University of World Economy and Diplomacy has established a UNESCO Chair in human rights, peace, democracy, tolerance and international understanding and the Academy of the Ministry of Internal Affairs has established a chair in human rights theory and practice.

All the above measures are fully consistent with the United Nations Declaration on Human Rights Defenders.

Paragraph 4 (n)

The domestic law of Uzbekistan regulating labour matters is fully in line with international rules and standards, including International Labour Organization (ILO) Convention No. 29 on Forced Labour and Convention No. 105 concerning the Abolition of Forced Labour.

Uzbekistan is committed to meeting the obligations which it has entered into within international organizations, including ILO. The Uzbek Government avails itself of all the resources and opportunities at its disposal in carrying out a systematic policy designed to uphold the right to work of its citizens and to ensure a decent standard of living.

The issue of ratification of ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour is currently under consideration by the appropriate ministries and departments of the Republic of Uzbekistan.

Paragraph 4 (o)

As stated in article 41, paragraph 2, of the Vienna Convention on Diplomatic Relations: "All official business with the receiving State entrusted to the mission by the sending State shall be conducted with or through the Ministry for Foreign Affairs of the receiving State or such other ministry as may be agreed.

Accordingly, members of the diplomatic corps must abide by this provision in "ascertaining by all lawful means conditions and developments in the receiving State, and reporting thereon to the Government of the sending State", as set out in article 3, paragraph 1 (d), of the Convention.

In addition, pursuant to article 29 of the Convention, the receiving State shall take all appropriate steps to prevent any attack on the person, freedom or dignity of a diplomatic agent. The request by the Uzbek authorities to diplomatic missions accredited to Tashkent to notify them of visits by diplomatic representatives to other regions of the country in the performance of their official duties was prompted by the authorities' aspiration to comply with that obligation under the Vienna Convention.